

Joint Committee Meeting Attendance Sheet

Committees on Environment and Natural Resources

Date: May 14, 2003

Meeting Type: Joint Public Hearing:
CR 03 016 & CR 03 017

Location: Room 411 South, State Capitol

<u>Committee Member</u>	<u>Present</u>	<u>Absent</u>	<u>Excused</u>
Senator Neal Kedzie	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Cathy Stepp	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator David Zien	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Fred Risser	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Robert Wirsch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative DuWayne Johnsrud	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Scott Gunderson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Al Ott	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Mark Pettis	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Gary Bies	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Judy Krawczyk	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Mary Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Spencer Black	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Bobbi Gronemus	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Representative John Steinbrink	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Mark Miller	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Totals: 15 1

Vote Record

Committee on Environment and Natural Resources

Date: 7/16/03

Moved by: NK

Seconded by: STEPP

AB _____

SB _____

Clearinghouse Rule 03-017

AJR _____

SJR _____

Appointment _____

AR _____

SR _____

Other _____

A/S Amdt _____

A/S Amdt _____ to A/S Amdt _____

A/S Sub Amdt _____

A/S Amdt _____ to A/S Sub Amdt _____

A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:

☐ Passage

☐ Adoption

☐ Confirmation

☐ Concurrence

☐ Indefinite Postponement

☐ Introduction

☒ Rejection

☐ Tabling

☐ Nonconcurrence

Committee Member

Senator Neal Kedzie

Aye

No

Absent

Not Voting

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Senator Cathy Stepp

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Senator David Zien

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Senator Fred Risser

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Senator Robert Wirch

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Totals:

3

2

Vote Record

Committee on Environment and Natural Resources

Date: 5/28/03

Moved by: STAPP

Seconded by: KEDZIE

AB _____

SB _____

Clearinghouse Rule 03-017

AJR _____

SJR _____

Appointment _____

AR _____

SR _____

Other MODIFICATIONS

A/S Amdt _____

A/S Amdt _____ to A/S Amdt _____

A/S Sub Amdt _____

A/S Amdt _____ to A/S Sub Amdt _____

A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for: SPECIFIC MODIFICATIONS (BAIT, FEED AND ANIMAL PARTS BAN)
☐ Passage ☐ Adoption ☐ Confirmation ☐ Concurrence ☐ Indefinite Postponement
☐ Introduction ☐ Rejection ☐ Tabling ☐ Nonconcurrence

Committee Member

Senator Neal Kedzie

Aye

No

Absent

Not Voting

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Senator Cathy Stepp

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Senator David Zien

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Senator Fred Risser

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Senator Robert Wirch

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Totals:

3

2

REPORT TO LEGISLATURE

NR 10, 19 and 45, Wis. Adm. Code
Control and management of chronic wasting disease

Board Order No. WM-05-03
Clearinghouse Rule No. 03-016

Statement of Need

Chronic wasting disease (CWD) is an infectious, abnormal protein that is passed from deer to deer both directly and indirectly. All deer with CWD will die.

The proposed rule puts into place regulations that will replace emergency rules adopted in June, 2002 to help control CWD. The Department believes that the best approach to controlling this disease is to drastically reduce the deer population in and near the infected area so that diseased deer are less likely to transmit the disease to healthy deer. The plan is to reduce deer populations to as close to zero as possible in the infected Eradication Zone and to reduce populations within 40 miles of the center of the Eradication Zone to 10 deer per square mile of deer range. The proposed rule places a higher priority on shooting deer for disease control than on recreational opportunities that these control efforts may conflict with.

The proposed rule contains provisions that affect:

Eradication, Intensive Harvest and Herd Reduction Zones – The rule describes 2 CWD zones for hunting regulations. The Intensive Harvest Zone is an area around the positive CWD cases, identified by county and state highways, where the most intensive hunting regulations will be employed. The Herd Reduction Zone is the adjacent area out to approximately 40 miles from the center of the positive CWD cases, where somewhat less aggressive hunting regulations will be used. The Herd Reduction Zone includes whole and partial deer management units bounded by highways.

A smaller area within the Intensive Harvest Zone will have additional herd management tools available including shooting by department employees, landowner shooting permits, helicopter use for drives and shooting, landowner shooting from tractors and shooting from vehicles by department employees. This area is called the Eradication Zone where deer populations will be reduced to as close to zero as possible. This area will have the same hunting regulations as the Intensive Harvest Zone that it is contained within. The Eradication Zone is defined as an area that includes all sections intersected by or contained in a circle with up to a 4.5 mile radius from the center of each section with a CWD positive deer.

Population Goals – The proposed rule establishes a population goal of 10 deer per square mile of deer range for all units and partial units in the Herd Reduction Zone. The Intensive Harvest Zone includes a buffer area out from the Eradication Zone to state and county highways; the buffer area has a population goal of less than 10 deer per square mile of deer range.

Hunting Seasons – The Intensive Harvest Zone would have a gun hunt from the Thursday nearest October 27 to January 3. The archery hunt would begin on the Saturday nearest September 15 and run through January 3. There will be no separate muzzleloader season. The Herd Reduction Zone would have gun hunts from the Thursday nearest October 27 to the following

Sunday (Zone T format) and from the Saturday prior to Thanksgiving to January 3. The 5 days of closed season preceding the weekend before Christmas is now proposed to be open to gun hunting. The archery hunt will run from the Saturday nearest September 15 through January 3. There will be no separate muzzleloader season.

Permit System – The proposed rule continued the earn-a-buck system in both the Intensive Harvest Zone and the Herd Reduction Zone. Hunters will be allowed to earn an antlered deer hunting opportunity for each antlerless deer shot. A hunter can bring in both an antlered deer and an antlerless deer without registering the antlerless deer first as long as the antlerless deer was shot first and accompanies the antlered deer. Hunters could earn antlered deer hunting authority with antlerless deer shot during the landowner hunt, archery hunt, and gun hunt periods; antlered deer hunting authority would not be specific to a weapon type. Hunters could obtain up to 4 special CWD permits per day prior to and during the hunts.

Registration and Carcass Transportation – Deer harvest in the Intensive Harvest Zone would have to be registered in that zone. Registration would be required by 5 p.m. on the day after the deer was killed. Deer harvested outside the Herd Reduction Zone could be not registered in the Herd Reduction Zone or Intensive Harvest Zone. Deer harvested outside the Herd Reduction Zone could not be transported in or through the Herd Reduction Zone or Intensive Harvest Zone prior to registration.

Firearm Restrictions – Any legal firearm could be used in Intensive Harvest Zones, including rifles. The Intensive Harvest Zone may include portions of counties that normally had a shotgun-only restriction. Firearms would be restricted to those normally allowed during the gun season for each county in Herd Reduction Zones.

Blaze Orange – All hunters except waterfowl hunters would be required to wear clothing that is at least 50% blaze orange above the waist in the CWD gun hunts in the Intensive Harvest and Herd Reduction Zones.

State Parks and Waterfowl Refuges – All Department-managed lands will be opened to hunting. State parks in the Intensive Harvest and Herd Reduction Zones would be opened to deer hunting to reduce the herd and remove potential refuges. Parks that are in urban areas or that contain little huntable land would be exempt for CWD hunts.

Landowner Permits – Deer removal would be allowed under the authority of ch. NR 12 due to the nuisance of CWD and landowner permits would be issued for deer removal. Harvested deer would have to be registered at a designated registration station.

Sampling for Disease – The rule clarifies that the Department may sample a hunter-harvested deer for disease testing purposes.

Diseased Deer Replacement Permits – The rule allows the Department to issue replacement permits to hunters who surrender to the Department a deer believed to be diseased.

Modifications as a Result of Public Hearing

A response to comments at the public hearings is attached. Included in the rule jacket is a report entitled "Chronic Wasting Disease in Wisconsin and the 2002 Hunting Season: Gun Deer Hunters' First Response". Following is a summary of the modifications made following public hearings:

The name of the "Management Zone" was changed to "Herd Reduction Zone" because the earlier name implied to people that the area was known to have CWD, which was not true. The initial rule was changed from describing a radius of 4.5 miles to an area "up to" 4.5 miles for the Eradication Zone.

The Intensive Harvest Zone gun and archery hunt seasons were shortened from 2002, which ended January 31, in response to concerns from landowners and to facilitate easier issuance of bait permits if desired in the future.

To help address public concerns about the earn-a-buck regulations, the proposed rules:

- Replace earn-a-buck regulations with normal deer hunting permit systems in the Herd Reduction Zone when deer numbers are reduced below 15 per square mile of deer range in a deer management unit.
- Replace earn-a-buck regulations with either sex hunting regulations in the Intensive Harvest Zone when deer numbers are reduced below 15 per square mile of deer range.
- Provide 2 free buck tags to landowners with a CWD landowner permit in the Eradication Zone; landowners would be allowed to decide who gets the 2 tags for their property.
- Allow buck tags earned in a CWD Intensive Harvest Zone or Herd Reduction Zone to be used in the following year in one of these zones if they continue under earn-a-buck regulations.

In response to public concerns, deer harvested in the Herd Reduction Zone could be registered in either the Herd Reduction Zone or the Intensive Harvest Zone, adding flexibility for those harvesting deer in the Herd Reduction Zone. The Department is also proposing that hunters be allowed to transport their deer outside these zones as long as they bring them back for registration by 5 p.m. the day after harvest.

In response to confusion over different hunting season dates for different park in the Intensive Harvest and Herd Reduction Zones, seasons in state parks are proposed to be consistent in each of these zones.

Appearances at the Public Hearings and Their Response

The Department held 17 hearings on the proposed CWD rules and associated EIS on March 17, 18 and 19. A total of 1,225 individuals attended. A hearing summary and a list of appearances is attached.

Response to Legislative Council Rules Clearinghouse Report

Comments from the Legislative Council Rules Clearinghouse have been reviewed and, where appropriate, have been incorporated. Following are the comments that have not been incorporated:

1. Statutory Authority:

Clearinghouse Comment: The rule requires consideration of other alternatives to "shooting and driving" animals from aircraft. The statute only requires all other alternatives to be considered before DNR authorizes shooting animals from aircraft.

Response: Driving or pursuing is included in the definition of hunting (s. 29.001(42), Stats.) and "hunting" is the authority which was granted in 2001 Wis. Act 108 (s. 29.307(2)(a), Stats.); therefore, the department feels "driving" should remain in s. NR 10.07(1)(a).

Clearinghouse Comment: The statute authorizes only employees or agents of the state or federal government to hunt from aircraft. The rule does not contain this restriction.

Response: Since this provision is already required by statute, the rule does not need to restate the requirement.

4. Adequacy of Reference to Related Statutes, Rules and Forms.

Clearinghouse Comment: A definition of "notice and information to the public that is adequate" is created in s. NR 10.001(19e). Although this phrase is used in s. 29.063(2), Stats., the entire phrase in the statute is substantially longer. This rule provision is intended to determine how the DNR gives public notice prior to the commencement of hunting in the eradication zone. The phrase is not used at any place in the proposed rule. Therefore, the standards for notice in s. NR 10.001(19e) should be included with the substantive provisions of the rule, and should not be created as a definition.

Response: Section NR 10.001(19e) fulfills its purpose, which is to define a phrase in the administrative code that is not defined in statute. The reference to the statute is included in the rule.

5. Clarify, Grammar, Punctuation and Use of Plain Language

Clearinghouse Comment e: Section NR 12.06(2) refers to landowners, lessees, occupants, or "their duly authorized agent." The rest of s. NR 12.06 does not refer to agents, but rather to those who might assist as a "participant" in the removal of deer. Does the reference to "agent" raise concerns regarding making the landowner, lessee, or occupant liable for actions of the person who assists as a participant in the hunt.

Response: An "agent" is designated by the landowner to receive the permits from the DNR and participants are those that assist the permittee. The "agent" is not the agent of the department, but is the agent of the designator, whether it be landowner, lessee or occupant. Because participants are not agents, there is not the concern for liability since only permittees can be agents of the landowner and not the participants.

Final Regulatory Flexibility Analysis

The proposed revisions to chs. NR 10, 12, 19 and 45, Wis. Adm. Code, pertain to the rules relating to the control and eventual eradication of Chronic Wasting Disease from the state's deer herd and impose no compliance or reporting requirements for small businesses, nor are there any design or operational standards contained within the proposed rule.

CWD MGMT

Clearinghouse Rule 03-017

Rule Sent to Clearinghouse

**ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD REPEALING,
RENUMBERING, AMENDING AND CREATING RULES**

The Wisconsin Natural Resources Board proposes an order to renumber NR 10.001(1m), (6m) and (23m); amend NR 10.01(3)(e)1. (intro.), 3.a., 6.(intro.) and 6.a., (em)1. and 3., (es)1., (ev), 10.06(8)(a), 10.07(1)(a), 10.09(1)(a)2. and (c)3. and (2)(intro.), 10.27 (1), and 12.10(3)(c); and to create NR 10.001 (1n), (6h), (6p), (6t), (11), (19e), (23m) and (24m), 10.01(3)(et) and (ez)4., 10.07 (3), 10.104(11), (12) and (13), 10.105(3) and (4), 10.106(2)(f), 10.27(10), 10.28(3), 10.41, 10.42, 12.06, and NR 45.09(9) relating to the control and management of chronic wasting disease.

WM-05-03

Analysis Prepared by Department of Natural Resources

Statutory Authority: § 29.014 , 29.033, 29.307, 29.335, 29.885 and 227.11, Stats.

Statutes Interpreted: § 29.033, 29.177, 29.307, 29.335 and 29.361, Stats.

Sections 1 and 2. Defines an archery hunt as it relates to the special chronic wasting disease (CWD) control and management hunts.

Section 3. Defines CWD.

Section 4 and 5. Defines the CWD eradication zone.

Section 6. Defines the CWD intensive harvest zone.

Section 7. Defines the herd reduction zone.

Section 8. Defines adequate public notice and information as it relates to defining a new CWD eradication zone.

Section 9 and 10. Defines a section of land.

Section 11. Defines a shotgun hunt as it relates to the special CWD control and management hunts.

Section 12 and 14. Defines all of the metro deer management units as Zone "M" and eliminates deer management unit 76M from the list of metro units which have a standard deer season framework and harvest limits.

Sections 13 and 29. Eliminates Blue Mounds State Park from the list of parks with muzzleloader deer seasons.

Section 15. Updates exceptions to the regular deer archery season.

Section 16. Updates exceptions to the muzzleloader season.

Section 17. Creates the special disease control hunts for the gun and archery hunts in the deer management units, portions of deer management units and state parks that are included in the herd reduction and CWD intensive harvest zones.

Sections 18 and 19. Exempts units that are participating in the special CWD herd reduction hunts from the one-day youth antlerless deer hunt and the special herd control hunts.

Section 20. Modifies hunting hours for the CWD archery seasons.

Section 21. Authorizes the use of aircraft by the department to harvest, spot, rally and drive deer to help with the depopulation of deer within the eradication zone after all other control measures have been considered and also authorizes the use of buckshot from or with the aid of aircraft.

Section 22. Requires participants in the CWD herd reduction hunts to comply with blaze orange clothing requirements.

Section 23. Prohibits the possession of “buck shot” during the special CWD control hunts.

Section 24. Clarifies the prohibition of rifles in shotgun only areas during deer seasons and hunts.

Section 25. Allows hunting the day prior to the opening of a special gun deer hunt.

Section 26. Creates special CWD deer permits that authorize the harvesting of deer within the CWD management zones and creates a permit that will be issued to hunters to replace their carcass tag should they shoot a deer that appears to be diseased while hunting and defines the conditions for their use.

Section 27. Develops transportation and sampling guidelines for deer harvested within and outside of the CWD management zones.

Section 28. Develops registration guidelines for deer harvested within the CWD management zones.

Section 30. Establishes a deer season and weapon restrictions for Blue Mounds State Park.

Section 31. Creates a map that identifies the CWD herd reduction zone and the CWD intensive harvest zone.

Section 32. Creates a section regarding natural resources board guidance as it pertains to the management of chronic wasting disease by the department.

Section 33. Provides the department with the authority to utilize additional measures when necessary, within their legislative authority, to control the spread of CWD in the state.

Section 34 and 35. Identifies deer within the CWD eradication zone as causing a nuisances and authorizes the department to issue permits to landowners and their permittees to harvest deer during periods defined by the department throughout the year and defines the parameters of their issuance and guidelines for their use.

Section 36. Creates a free state park hunting access permit that is required to hunt in the state parks participating in the special CWD control hunts.

Section 1. NR 10.001(1m) is renumbered NR 10.001(1t).

Section 2. NR 10.001(1n) is created to read.

NR 10.001(1n) "Archery hunt" means a hunting period for hunting deer with bow and arrow or crossbow as authorized by s. 29.171(2) and (2m), Stats., in the zones described in s. NR 10.28(3).

Section 3. NR 10.001(6h) is created to read.

NR 10.001(6h) “CWD” means chronic wasting disease.

Section 4. NR 10.001(6m) is renumbered NR 10.001(6d)

Section 5. NR 10.001(6p) is created to read.

NR 10.001(6p) The “CWD eradication zone” is the area established by the department where the depopulation of the wild deer herd is required to eradicate chronic wasting disease and consists of all sections of land contained within or intersected by a 4½ mile radius circle drawn from the center of the section of land found to have contained a deer or elk that has tested positive for chronic wasting disease.

Section 6. NR 10.001(6t) is created to read.

NR 10.001(6t) The “CWD intensive harvest zone” means a zone established in s. NR 10.28(3).

Section 7. NR 10.001(11) is created to read.

NR 10.001(11) The "herd reduction zone " means a zone established in s. NR 10.28(3) excluding the CWD intensive harvest zone described in s. NR 10.28(3).

Section 8. NR 10.001(19e) is created to read.

NR 10.001(19e) "Notice and information to the public that is adequate" under s. 29.063, Stats., means a department press release to the local news media and the official state newspaper and may also include the following: public meetings, telephone contacts, internet postings, brochure distribution, first class mailings and meetings with landowners in the eradication zone.

Section 9. NR 10.001(23m) is renumbered NR 10.001(23s).

Section 10. NR 10.001(23m) is created to read.

NR 10.001(23m) "Section of land" means a numbered one square mile section of platted land within a township.

Section 11. NR 10.001(24m) is created to read.

NR 10.001(24m) "Shotgun hunt" means a hunting period for hunting deer with those firearms and ammunition defined in sub. (24).

Section 12. NR 10.01(3)(e)1. (intro.) is amended to read.

Kind of animal and locality	Open season (all dates inclusive)	Limit
1. Zone "A"		
All that part of the state not otherwise listed in season zones "B" through "F" "M" or in those zones described in s. NR 10.28(3).		

Section 13. NR 10.01(3)(e)3.a., is amended to read.

Kind of animal and locality	Open season (all dates inclusive)	Limit
3. Zone "C" – State Parks		
a. Governor Dodge (unit 70C), Blue Mound (unit 70D) , Perrot (unit 61A) and Peninsula (unit 80C) state parks.	Muzzle loading firearm season beginning on the Saturday immediately preceding the Thanksgiving holiday and continuing for up to 9 consecutive days as indicated on the permit.	One deer as authorized by hunter's choice and antlerless deer permits issued under s. NR 10.104.

Section 14. NR 10.01(3)(e)6. (intro.) and a. are amended to read.

Kind of animal and locality	Open season (all dates inclusive)	Limit
6. Zone "M"		
a. Deer management units 59M, 60M, 64M, 76M and 77M.	Shotgun season beginning on the Saturday immediately preceding the Thanksgiving holiday and continuing for 9 consecutive days.	One buck deer or as authorized by hunter's choice and antlerless deer permits issued under s. NR 10.104.
	Shotgun season beginning on the day immediately following the season described above and continuing through the second Sunday in December.	One antlerless deer per hunter's choice or antlerless deer permit issued under s. NR 10.104.

Section 15. NR 10.01(3)(em)1. and 3. are amended to read.

Kind of animal and locality	Open season (all dates inclusive)	Limit
<i>(em) Deer bow season</i>		
1. Statewide except as established under s. NR 10.01(3)(em)2., and 3. <u>and (et).</u>	Beginning on the Saturday nearest September 15 and continuing through the 2nd day Thursday immediately prior to the opening of the deer gun season described in par. (e).	One deer of either sex and one antlerless deer per hunter's choice and per bonus permit issued under s. NR 10.104.
	Reopening on the day immediately after the deer gun season described in par. (e) and continuing through January 3.	One deer of either sex and one antlerless deer per hunter's choice and per bonus permit issued under s. NR 10.104.
3. M, M-1, M-2, M-3 Deer management units 1M, 59M, 60M, 64M, 76M and 77M.	Beginning on the Saturday nearest September 15 and continuing through the Thursday immediately prior to the opening of the deer gun season and reopening on the Saturday immediately preceding the Thanksgiving holiday and continuing through January 31.	One deer of either sex and one antlerless deer per hunter's choice and bonus permit issued under s. NR 10.104.

Section 16. NR 10.01(3)(es)1. is amended to read.

Kind of animal and locality	Open season (all dates inclusive)	Limit
<i>(es) Muzzleloader deer season</i>		
1. Entire state, except for the areas described in subd. 2. and <u>par. (et).</u>	Beginning on the Monday immediately following the Thanksgiving holiday and continuing for 10 consecutive days.	One buck deer or as authorized by hunter's choice and antlerless deer permits issued under s. NR 10.104.

Section 17. NR 10.01(3)(et) is created to read.

Kind of animal and locality	Open season (all dates inclusive)	Limit
<i>(et) Special disease control hunts.</i>		
1.a. In the portions of deer management units included in the herd reduction zone established in s. NR 10.28(3) except as established in subdivision paragraph b. and excluding units listed in subdivision paragraph c.	Archery hunt beginning on the Saturday nearest September 15 and continuing through January 3rd.	One antlerless deer per archery deer carcass tag or antlerless permit. In addition, buck deer may be taken pursuant to s. NR 10.104(11). Hunter's choice and bonus antlerless deer permits issued under s. NR 10.104 are not valid in these zones.
	A firearm hunt beginning on the Thursday nearest October 27 and continuing for 4 consecutive days. Allowable types of firearms are those authorized on the first day of the regular gun deer season under s. NR 10.01(3)(e).	One antlerless deer per gun deer carcass tag or antlerless permit. In addition, buck deer may be taken pursuant to s. NR 10.104(11). Hunter's choice and bonus antlerless deer permits issued under s. NR 10.104 are not valid in these zones.
	A firearm hunt beginning on the Saturday immediately preceding the Thanksgiving holiday and continuing through January 3. Allowable types of guns are those authorized on the first day of the regular gun deer season under s. NR 10.01(3)(e).	One antlerless deer per gun deer carcass tag or antlerless permit. In addition, buck deer may be taken pursuant to s. NR 10.104(11). Hunter's choice and bonus antlerless deer permits issued under s. NR 10.104 are not valid in these zones.
b. In the portions of deer management units included in the herd reduction zone established in s. NR 10.28(3) where the overwinter population of deer, determined by the department pursuant to s. NR 10.41(4)(b), is 15 or less deer per square mile of deer range.	Archery season beginning on the Saturday nearest September 15 and continuing through the Thursday immediately prior to the Thanksgiving holiday.	One deer of either sex and one antlerless deer per hunter's choice and per bonus permit issued under s. NR 10.104.
	Archery season reopening on the Monday following the Thanksgiving holiday and continuing through January 3.	One deer of either sex and one antlerless deer per hunter's choice and per bonus permit issued under s. NR 10.104.
	Firearm season beginning on the Saturday immediately preceding the Thanksgiving holiday and continuing for 9 consecutive days. Allowable types of firearms are those authorized on the first day of the regular gun deer season under s. NR 10.01(3)(e).	One buck deer or as authorized by hunter's choice and bonus antlerless deer permits issued under s. NR 10.104.
	Muzzleloader season beginning on the Monday immediately following the Thanksgiving holiday and continuing for 10 consecutive days.	One buck deer or as authorized by hunter's choice and bonus antlerless deer permits issued under s. NR 10.104.

Kind of animal and locality	Open season (all dates inclusive)	Limit
c. State parks in the herd reduction zone established in s. NR 10.28(3), except those state parks that are located in units or portions of units subject to subdivision paragraph b., which will return to the seasons authorized under s. NR 10.27.	A firearm hunt beginning on the Thursday nearest October 27 and continuing for 4 consecutive days. Allowable types of firearms are those authorized on the first day of the regular gun deer season under s. NR 10.01(3)(e). Legal hunting hours are the same as those established in s. NR 10.06(5) except that hunting hours shall close at 12:00 p.m. daily.	One antlerless deer per gun deer carcass tag and one antlerless deer per archery deer carcass tag or antlerless permit issued under s. NR 10.104(11). In addition, buck deer may be taken pursuant to s. NR 10.104(11). Hunter's choice and antlerless deer permits issued under s. NR 10.104 are not valid in this zone.
	An archery and firearm hunt beginning on the Saturday prior to the Thanksgiving holiday and continuing through the 3 rd Sunday following the Thanksgiving holiday. Allowable types of guns are those authorized on the first day of the regular gun deer season under s. NR 10.01(3)(e).	One antlerless deer per gun deer carcass tag and one antlerless deer per archery deer carcass tag or antlerless permit issued under s. NR 10.104(11). In addition, buck deer may be taken pursuant to s. NR 10.104(11). Hunter's choice and antlerless deer permits issued under s. NR 10.104 are not valid in this zone.
d. If the department finds that it is unlikely that the deer population in the unit or portion of unit located within the herd reduction zone established in s. NR 10.28(3) will be reduced to within 20% of the overwinter population goal established in s. NR 10.41(4)(b) under the season described in subdivision paragraph b., the season framework established in par. (ez)1.a. to c. will be implemented within that unit or portion of unit.		
2. a. In the CWD intensive harvest zone as described in s. NR 10.28(3) except as established in subdivision paragraph b. and excluding units listed in subd. 3.	Archery hunt beginning on the Saturday nearest September 15 and continuing through January 31.	One antlerless deer per archery deer carcass tag or antlerless permit issued under s. NR 10.104(11). In addition, buck deer may be taken pursuant to s. NR 10.104(11). Hunter's choice and antlerless deer permits issued under s. NR 10.104 are not valid in this zone.
	A firearm hunt beginning on the Thursday nearest October 27 and continuing through January 31.	One antlerless deer per gun deer carcass tag or antlerless permit issued under s. NR 10.104(11). In addition, buck deer may be taken pursuant to s. NR 10.104(11). Hunter's choice and antlerless deer permits issued under s. NR 10.104 are not valid in this zone.

Kind of animal and locality	Open season (all dates inclusive)	Limit
b. In the CWD intensive harvest zone established in s. NR 10.28(3) where the overwinter population of deer, determined by the department pursuant to s. NR 10.41(4)(a), is 5 or less deer per square mile of deer range.	<p>Archery hunt beginning on the Saturday nearest September 15 and continuing through January 3.</p> <p>A firearm hunt beginning on the Thursday nearest October 27 and continuing through January 3.</p>	<p>One deer of either sex per archery deer carcass tag, special antlerless permit issued under s. NR 10.01(3)(ez) or a permit issued under s. NR 10.104(13). Hunter's choice and antlerless deer permits issued under s. NR 10.104 are not valid in this zone.</p> <p>One deer of either sex per gun deer carcass tag, special antlerless permit issued under s. NR 10.01(3)(ez) or a permit issued under s. NR 10.104(13). Hunter's choice and antlerless deer permits issued under s. NR 10.104 are not valid in this zone.</p>
3.a. State parks in the CWD intensive harvest zone established in s. NR 10.28(3), except as established in subdivision paragraph b.	<p>An archery and firearm hunt beginning on the Thursday nearest October 27 and continuing for 4 consecutive days. Legal hunting hours are the same as those established in s. NR 10.06(5) except that hunting hours will close at 12:00 p.m. daily.</p> <p>An archery and firearm hunt beginning on the day immediately following the hunt described above and continuing through the 3rd Sunday following the Thanksgiving holiday.</p>	<p>One antlerless deer per gun deer carcass tag and one antlerless deer per archery deer carcass tag or antlerless permit issued under s. NR 10.104(11). In addition, buck deer may be taken pursuant to s. NR 10.104(11). Hunter's choice and antlerless deer permits issued under s. NR 10.104 are not valid in this zone.</p> <p>One antlerless deer per gun deer carcass tag and one antlerless deer per archery deer carcass tag or antlerless permit issued under s. NR 10.104(11). In addition, buck deer may be taken pursuant to s. NR 10.104(11). Hunter's choice and antlerless deer permits issued under s. NR 10.104 are not valid in this zone.</p>
b. If the overwinter population of deer in the intensive harvest zone, determined by the department pursuant to s. NR 10.41(4)(a), is 5 or less deer per square mile of deer range.	<p>An archery and firearm hunt beginning on the Thursday nearest October 27 and continuing for 4 consecutive days. Legal hunting hours are the same as those established in s. NR 10.06(5) except that hunting hours will close at 12:00 p.m. daily.</p> <p>An archery and firearm hunt beginning on the day immediately following the hunt described above and continuing through the 3rd Sunday following the Thanksgiving holiday.</p>	<p>One deer of either sex per special antlerless permit issued under s. NR 10.01(3)(ez), a permit issued under s. NR 10.104(13), gun deer carcass tag or archery deer carcass tag. Hunter's choice and antlerless deer permits issued under s. NR 10.104 are not valid in this zone.</p> <p>One deer of either sex per special antlerless permit issued under s. NR 10.01(3)(ez), a permit issued under s. NR 10.104(13), gun deer carcass tag or archery deer carcass tag. Hunter's choice and antlerless deer permits issued under s. NR 10.104 are not valid in this zone.</p>

Section 18. NR 10.01(3)(ev) is amended to read.

Kind of animal and locality	Open season (all dates inclusive)	Limit
(ev) <i>Special youth antlerless deer hunt event.</i>		

Persons 12 years of age or older but under the age of 16 years of age who possess a certificate of accomplishment under s. 29.591, Stats., or its equivalent from another state or province, may hunt antlerless deer with a ~~gun~~ firearm on the Saturday of a herd control hunt defined under s. NR 10.01 (3) (ez) 1. a. in deer management units, except state park units ~~and units not included in a deer herd control firearm hunt under s. NR 10.01 (3) (ez) or (et) on the same day.~~ Allowable types of ~~guns~~ firearms are those authorized on the first day of the regular gun deer season under s. NR 10.01 (3) (e). The bag limit is one antlerless deer per hunter's choice or antlerless deer permit issued under s. NR 10.104. Youth who are first time graduates of the hunter education program may use their certificates of accomplishment in place of a hunter's choice permit issued under s. 29.177, Stats., to take an antlerless deer. Hunters shall be accompanied by an adult 18 years of age or older. One adult may not accompany more than 2 hunters and all other hunting regulations apply. Blaze orange requirements under s. 29.301 (2), Stats., apply to all hunters on this day except waterfowl hunters.

Section 19. NR 10.01(3)(ez) 4. is created to read.

Kind of animal and locality	Open season (all dates inclusive)	Limit
(ez) <i>Special deer herd control hunt.</i>		

4. Areas specified under this paragraph exclude areas described in par. (et)1.a. and 2.a. and b.

Section 20. NR 10.06(8)(a) is amended to read.

NR 10.06(8)(a) *Bow bear and deer seasons.* Hunting hours established in sub. (5) shall apply to archers pursuing any species during the bow bear season established in s. NR 10.01(3) (g); ~~and during the bow deer season established in s. NR 10.01 (3) (em), and the archery hunts established in s. NR 10.01(3)(et)1., 2. and 3.~~

Section 21. NR 10.07(1)(a) is amended to read.

NR 10.07(1)(a) *Aircraft.* Hunt with the aid of an ~~airplane~~ aircraft, including the use of an ~~airplane~~ aircraft to spot, rally or drive wild animals for hunters on the ground, ~~except as authorized by the department within the CWD eradication zone defined in s. NR 10.001(6p) when other alternatives to shooting and driving animals from aircraft have been considered and the department determines that the use of aircraft is necessary in order to control the spread of disease in animals as follows:~~

1. Deer may be shot from aircraft only between December 1 and the following April 15.
2. Aircraft may be used to spot, rally or drive deer for harvest or other control purposes as authorized by the department.
3. Deer may be harvested from an aircraft only on properties where the department has received landowner approval.
4. Deer driven with an aircraft may be harvested by ground shooters.
5. All ground shooters participating in control of deer with the aid of an aircraft shall wear blaze orange clothing as described in s. 29.310(2), Stats.
6. Notwithstanding s. NR 10.09(1)(a)2., any person authorized by the department to shoot deer from or with the aid of an aircraft pursuant to this paragraph, may use shotshells loaded with shot larger than no. BB to shoot deer.

Section 22. NR 10.07(3) is created to read.

NR 10.07(3) CWD BLAZE ORANGE REQUIREMENTS. The blaze orange requirements described in s. 29.301(2), Stats., apply to CWD deer herd reduction and eradication hunts under s. NR 10.01(3)(et).

Section 23. NR 10.09(1)(a)2. is amended to read.

NR 10.09(1)(a)2. 'Size.' Possess or have in control while hunting, shells containing shot larger than no. BB during the period commencing on June 1 and ending 48 hours following ~~gun~~ any deer season or hunt established in s. NR 10.01 (3) (e), ~~(es), (et) or (ez),~~ whichever season is later, except during the open season established in s. NR 10.01 (1) (b), (c), (d) and (g) when nontoxic shot size BBB and T may be used for hunting migratory game birds.

Section 24. NR 10.09(1)(c)3. is amended to read.

NR 10.09(1)(c)3. *'Possession.'* Possess-~~Except as provided in subd 4.~~ possess any rifle larger than .22 rim-fire in areas wherein there is an open season or hunt specified in s. NR 10.01(3) for hunting deer with shotgun only unless ~~such~~ the rifle is unloaded and enclosed within a carrying case.

Section 25. NR 10.09(2) (intro.) is amended to read.

NR 10.09(2) SPECIAL ONE-DAY RESTRICTION. (intro.) During the 24-hour period prior to the opening date for hunting deer with guns, no person ~~shall~~may possess a gun wherein there is an open season for deer with guns specified in s. NR 10.01(3)(c), unless the gun is unloaded and enclosed within a carrying case. Exceptions:

Section 26. NR 10.104(11), (12) and (13) are created to read.

NR 10.104(11) CHRONIC WASTING DISEASE SPECIAL PERMITS. In the CWD herd reduction and intensive harvest zones as described in s. NR 10.28(3), a valid gun or archery deer license and carcass tag or a special antlerless permit issued under s. NR 10.01(3)(ez), 12.06, 12.15 or 19.11 are all valid for tagging an antlerless deer or a buck deer pursuant to the procedure described in par. (a)3. In addition, the following carcass tags are valid for the taking and tagging of additional deer:

(a) *Special CWD earn-a-buck permits.* This special permit issued under s. 29.177, Stats., is valid for the taking of an antlerless deer in the units or portions of deer management units included in the CWD herd reduction and intensive harvest zones as described in s. NR 10.28(3). These special permits:

1. Will be issued free of charge at a rate of up to 4 permits per day per hunter.
2. Can be used during the hunts described in s. NR 10.01(3)(et)1.a., 2.a. and 3.a.
3. Can be used to tag a buck deer if:
 - a. An antlerless deer has been legally harvested and tagged prior to the harvest of the buck deer, and
 - b. The antlerless deer accompanies the buck deer until each is registered.
4. Are not valid if all the required information is not completed on the permit.

(b) *Special CWD buck deer permits.* A special CWD buck permit, issued under s. 29.177, Stats., is valid for the taking of a buck deer in units or portions of deer management units included in the CWD herd reduction and intensive harvest zones as described in s. NR 10.28(3). A buck deer permit may only be issued to an individual for each antlerless deer they register in the zone described in s. NR 10.28(3) that are not used for credit on a previous buck deer. No person may use or attempt to use an antlerless deer to receive more than one special CWD buck deer permit. A buck deer may be killed and tagged with a buck permit without it being accompanied by an antlerless deer. These permits are:

1. Valid during the hunts described in s. NR 10.01(3)(et)1.a., 2.a. and 3.a.
2. Valid only for the hunter who registers the antlerless deer to secure authorization for that hunter to tag one buck deer in the CWD herd reduction or intensive harvest zones.
3. Issued free of charge upon registering an antlerless deer in accordance with this subdivision.
4. Not valid if all the required information is not completed on the permit.

(12) SPECIAL DISEASED DEER REPLACEMENT PERMITS. The department may provide free replacement permits issued under s. 29.177, Stats., to hunters who harvest deer that are suspected of being diseased, provided that the entire deer is surrendered to the department or is disposed of as directed by the department. Each special permit shall be:

- (a) Issued by a department employee or a designated agent.
- (b) Issued to the hunter harvesting and tagging the suspect deer.
- (c) Issued for the type of deer authorized on the permit or license used to harvest and tag the suspect deer.

(13) SPECIAL CWD EITHER-SEX PERMITS. This special permit issued under s. 29.177, Stats., is valid for the taking of a deer of either-sex in the units or portions of deer management units included in the intensive harvest zone described in s. NR 10.28(3). These special permits:

- (a) Will be issued free of charge at a rate of up to 4 permits per day per hunter.
- (b) Are not valid if all the required information is not completed on the permit.

Section 27. NR 10.105(3) and (4) are created to read.

NR 10.105(3) CWD ZONE CARCASS TRANSPORTATION. In the CWD herd reduction and intensive harvest zones during the seasons established in s. NR 10.01(3)(et)1.a., 2.a. and 3.a., no person may:

(a) Transport or possess a buck deer from the time it is killed to the time it is registered under s. NR 10.106(2)(e) unless tagged with a special CWD buck permit described in s. NR 10.104(11)(b) or accompanied by the antlerless deer that authorized the buck deer and each is tagged in the CWD herd reduction or intensive harvest zones and tagged with a special CWD earn-a-buck permit, gun or bow carcass tag, or other antlerless permit authorized in s. NR 10.104(11).

(4) DISEASE SAMPLING. Notwithstanding s. 29.347, Stats., any part of any animal harvested under s. NR 10.01(3) may be collected or sampled by the department for disease testing purposes prior to registration.

Section 28. NR 10.106(2) (f) is created to read.

NR 10.106(2)(f) *CWD intensive harvest and special herd reduction zones.* Any deer harvested in the CWD intensive harvest zone or special herd reduction zone shall be registered at registration stations designated by the department within the CWD zone in which it was killed no later than 5:00 p.m. on the day after it was killed, unless otherwise authorized by the department.

Section 29. NR 10.27(1) is amended to read.

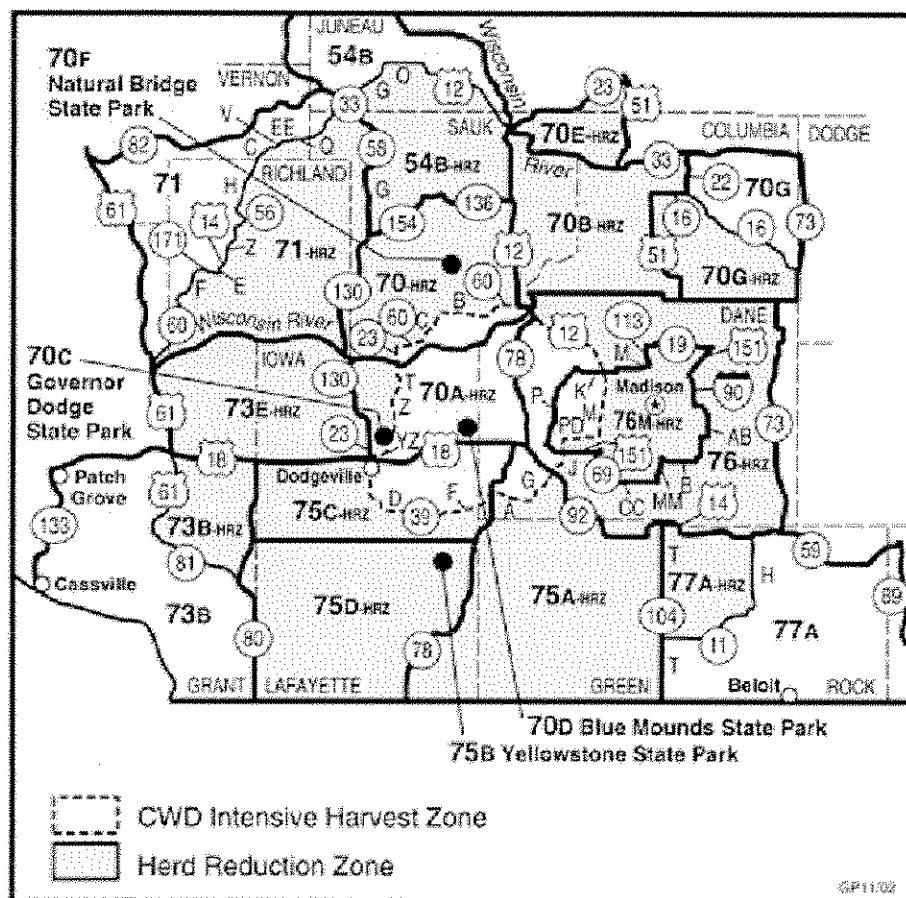
NR 10.27(1) MUZZLELOADER SEASON. Deer hunting by muzzleloader is allowed in ~~Blue Mound~~, Governor Dodge, Harrington Beach, Peninsula, Wildcat Mountain and Perrot state parks during the seasons specified in s. NR 10.01 (3) (e) 3.

Section 30. NR 10.27(10) is created to read.

NR 10.27 (10) FIREARM, EARLY AND LATE BOW SEASONS. Deer hunting by firearm is established in Blue Mounds state park during the seasons specified in s. NR 10.01(3)(et)1. and by bow and arrow for the seasons described in s. NR 10.01(3)(et)3.

Section 31. NR 10.28(3) is created to read.

NR 10.28(3) CWD HERD REDUCTION AND INTENSIVE HARVEST ZONES.



Section 32. NR 10.41 is created to read.

NR 10.41 Wildlife disease management. (1) **PURPOSE.** Pursuant to s. 29.063(1), Stats., the natural resources board establishes this section to provide guidelines for the department to manage chronic disease in wild cervids in this state.

(2) **STATE PARKS AND OTHER CLOSED AREAS.** State parks, refuges and closed areas identified in chs. NR 11, 15 and 45 may be opened to hunting by rule order to assist in the control of CWD.

(3) **CWD ERADICATION ZONE.** The department may establish an eradication zone, pursuant to the criteria established in s. NR 10.001(6p).

(a) *Overwinter goal.* The eradication zone shall have an overwinter deer population goal of 0 deer per square mile of deer range.

(b) *Population estimation.* The department shall annually calculate an estimate of the overwinter deer population for this zone with information obtained by surveys which may include registration data and aerial surveys.

(4) **CWD MANAGEMENT ZONES.** Under the authority of s. 227.24, Stats., the department may establish special CWD management zones through emergency rule around areas where CWD positive cervids have been identified.

(a) *CWD intensive harvest zone.* 1. Units or portions of units located within the boundaries of the CWD intensive harvest zone established in s. NR 10.28(3) will be managed at a goal of less than 10 deer per square mile of deer range.

2. This zone shall be identified by readily identifiable features of the landscape such as roads and rivers. When road boundaries are used, the department shall give priority to use of numbered and lettered highways, close to or near the eradication zone boundaries.

3. The department shall annually calculate an estimate of the overwinter deer population in this zone with information obtained by surveys which may include registration data and aerial surveys.

(b) *Herd reduction zone.* 1. Units or portions of units located within the boundaries of the herd reduction zone established in s. NR 10.28(3) will be managed at a goal of 10 deer per square mile of deer range.

2. This zone shall be identified by readily identifiable features of the landscape such as roads and rivers. When road boundaries are used, the department shall give priority to use of numbered and lettered highways.

3. The department shall annually calculate an estimate of the overwinter deer population for each deer management unit or portions of unit located within this zone with information obtained by surveys which may include registration data and aerial surveys.

4. The department may combine units or portions of units within the herd reduction zone into broad areas that have the same season framework under s. NR 10.01(3)(et)1.a., b. or d. to help simplify the deer hunts within the herd reduction zone.

Section 33. NR 10.42 is created to read.

NR 10.42 Official state duties. Nothing in this chapter shall prohibit or hinder the department and its employees, duly authorized agents, or contractors from performing their official duties.

Section 34. NR 12.06 is created to read.

NR 12.06 CWD eradication zone deer removal permits. (1) **FINDINGS.** Pursuant to s. 29.885(4), Stats., the natural resources board finds that deer within any CWD eradication zone cause a nuisance and that the shooting of deer with nuisance permits is necessary within any CWD eradication zone defined in s. NR 10.001(6p) in order to reduce the spread of disease within the CWD eradication zone and to reduce the risk of disease spreading outside any CWD eradication zone.

(2) **PERMITS.** Landowners, lessees, occupants or their duly authorized agents within the eradication zone may, under a department issued permit, remove deer from lands under their ownership or control in accordance with this section.

(a) Both antlerless and buck deer may be harvested unless otherwise restricted as a condition of the permit.

(3) **PARTICIPATION BY OTHERS.** Persons other than the permittee may assist as a participant in the removal of deer in accordance with this section on the land for which the permit is valid.

(a) *Number and selection of participants.* All participants shall be selected by the permittee and shall record their name, address, phone number and date of birth in a logbook provided by the department to the permittee.

(b) *Age and safety training.* All participants, including the permittee shall meet the requirements of ss. 29.304 and 29.593, Stats., pertaining to hunter safety and age.

(c) *Approval.* All participants shall possess written approval obtained from the permittee and the appropriate, valid hunting license unless exempted under sub. (4)(a) when carrying on removal activities. Written approval may include: name, address and phone number of landowner; name, address, phone number and DNR customer identification number, if applicable, of the person removing wild animals; property location and removal activities, authorized period of removal, signature of the permittee, or other form of approval authorized by the department.

(d) *No fees.* The permittee may not charge any form of fee to a participant.

(4) **LICENSES, STAMPS AND PERMITS.** (a) The permittee and participants are not required to possess the appropriate state hunting license or backtag for deer, unless otherwise required as a condition of the permit.

(b) Antlerless deer harvested under the authority of this section may be used to earn a CWD buck permit issued under s. NR 10.104(11) for the authority to harvest a buck deer during the seasons listed in s. NR 10.01(3)(et) within the CWD herd reduction and intensive harvest zones identified in s. NR 10.28(3).

(5) CARCASS DISPOSITION. Unless otherwise directed by the department, carcasses shall be disposed of in accordance with the procedures outlined on the permit issued by the department. Any part of any deer harvested under this section may be collected by the department for disease testing purposes.

(6) HARVEST PERIODS. Permits issued to landowners under this section are valid only for the periods specified by the department on the permit.

(7) SHOOTING HOURS. Permittees and participants shall comply with shooting hours described in s. NR 10.06 (5), unless exempted by the department.

(8) FIREARM USE. The following conditions shall apply to the use of firearms, bows or crossbows on deer shooting permits:

(a) Permittees and participants shall comply at all times when hunting with the blaze orange clothing regulations of s. 29.301 (2), Stats., unless exempted by the department. Exemptions may be granted where local ordinances prohibit the discharge of firearms and bow hunting or a trained sharpshooter during the closed deer gun season are the only methods available to remove deer.

(b) Except as provided under par. (c), and unless otherwise directed by the department, the weapons designated by the department on the permit shall be valid to harvest deer under the authority of the permit identified in sub. (2).

(c) In counties with deer shotgun seasons, a permittee and participants that have been authorized by the permittee may use a rifle that is not otherwise prohibited by s. NR 10.09(1)(c)2.

(9) REGISTRATION. Permittees and participants shall register deer taken under this section in accordance with the procedures designated by the department on the permit.

(10) VALIDATION. Any person who kills a deer or if s. 29.234, Stats., applies, the person providing the carcass tag shall immediately validate and attach the carcass tag as designated by the department.

(11) BAITING. The use of bait to attract or hunt deer for removal purposes by the permittee and participants is not allowed unless specifically authorized by the department and under the conditions specified in the permit.

Section 35. NR 12.10(3)(c) is amended to read.

NR 12.10(3)(c) As Except as authorized in s. NR 12.06 (3)(c), all participants and persons assisting participants shall possess written approval from the permittee and the appropriate, valid hunting or trapping license when carrying on removal activities. Written approval shall include: name, address and phone number of landowner; name, address and phone number of the person removing wild animals; property location and removal activities, authorized period of removal, species of animals authorized for removal, signature of the landowner or lessee, and date.

Section 36. NR 45.09(9) is created to read.

NR 45.09(9) CWD STATE PARK DEER HUNTING ACCESS PERMIT. (a) Unless authorized by the department, no person may hunt deer in accordance with the hunts described in s. NR 10.01(3)(et) without obtaining and possessing while hunting a free state park deer hunting permit and a property map identifying those areas closed to deer hunting within the park properties.

(b) The number of access permits issued will not be limited in number.

Note: Permits will be available at the state park office and other locations designated by the department.

Section 37. INITIAL APPLICABILITY. The state legislature has delegated to the department rule-making authority in 2001 Wisconsin Act 108 to control the spread of Chronic Wasting Disease (CWD) in Wisconsin. CWD poses a risk to the health of the state's deer herd and citizens and is a threat to the economic infrastructure of the department, the state, its citizens and businesses.

Section 38. EFFECTIVE DATE. The rules shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

Section 39. BOARD ADOPTION. The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on _____.

Dated at Madison, Wisconsin _____

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
Scott Hassett, Secretary

(SEAL)

BAT/FEED

Clearinghouse Rule 03-016

Rule Sent to Clearinghouse

**ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD
REPEALING, AMENDING AND CREATING RULES**

The Wisconsin Natural Resources Board proposes an order to repeal NR 10.07(1)(g); amend NR 10.001(2) and (14); and to create NR 10.001 (7e), (23e), 10.07(2), 19.001(4) and (15m), and 19.60 relating to the regulation of baiting and feeding to control and manage chronic wasting disease.

WM-09-03

Analysis Prepared by Department of Natural Resources

Statutory Authority: § 29.014 , 29.033, 29.335 and 227.11, Stats.

Statutes Interpreted: § 29.033 and 29.335, Stats.

Sections 1 Amends the definition of bait.

Section 2. Defines decoy.

Section 3. Amends the definition of liquid scent.

Section 4. Defines scent.

Sections 5 and 6. Prohibits the use of bait statewide for hunting and provides exceptions for landowners in the eradication zone and for bear hunting by imposing bait site, permit and date restrictions, and also allows the use of liquid scents for deer hunting.

Section 7. Defines bird feeding devices and structures.

Section 8. Defines small mammals.

Section 9. Prohibits feeding of wildlife and outlines exceptions for birds and small mammals.

Section 1. NR 10.001(2) is amended to read.

NR 10.001(2) For the purposes of this chapter, "bait" means ~~honey and any solid or nonliquid~~ any material attractive-used to attract wildlife including liquid scent.

Section 2. NR 10.001(7e) is created to read.

NR 10.001(7e) "Decoy" means the replica of an animal used to attract wild animals for the purpose of hunting, but may not include any food materials that can be consumed by any wild animal.

Section 3. NR 10.001(14) is amended to read.

NR 10.001(14) "Liquid scent" means any ~~non-solid~~ liquid material except honey, used to attract wild animals solely by its odor.

Section 4. NR 10.001(23e) is created to read.

NR 10.001(23e) "Scent" means any material, except honey, used to attract wild animals solely by its odor.

Section 5. NR 10.07(1)(g) is repealed.

Section 6. NR 10.07(2) is created to read.

NR 10.07(2) BAITING. (a) *General prohibition.* Except as provided in par. (b) or as authorized by a permit issued under s. NR 12.06(11), no person may hunt with the aid of bait, place or use bait for the purpose of hunting wild animals or training dogs.

(b) *Exceptions.* 1. Bait may be placed in compliance with par. (c) between April 15 and the close of the bear season, for hunting bear or training bear dogs during the open season's for these activities, provided when the bait is placed and when the bait site is checked or re-baited, that the bait is totally enclosed in a hollow log, a hole in the ground or stump which is capped with logs, rocks or other naturally occurring and unprocessed substances which prevents deer from accessing the material.

2. Liquid scent used for hunting of bear or training bear dogs from April 15 to the end of bear season does not need to be enclosed in a hollow log, a hole in the ground or stump.

3. This subsection does not prohibit hunting with the aid of material deposited by natural vegetation or material found solely as a result of normal agricultural or gardening practices.

4. Baiting for purposes of trapping is regulated by ss. NR 10.13(1)(b), 19.27, 19.275 and this section.

5. Baiting for waterfowl is regulated by s. NR 10.12(1)(h) and not this section.

6. This subsection does not prohibit hunting over crops planted and left standing as wildlife food plots.

7. Scent may be used for hunting deer or elk provided the scent is not placed or deposited in a manner that it is accessible for consumption by deer or elk and non-liquid scents shall be removed daily at the end of hunting hours for deer established in s. NR 10.06(5). Two ounces or less of liquid scent may be placed or deposited in any manner for hunting game animals.

8. This subsection does not prohibit hunting in accordance with s. 29.337, Stats., with the aid of feed material placed in compliance with s. NR 19.60.

9. This subsection does not prohibit hunting with the use of decoys except as already prohibited under ss. NR 10.12(1)(f) and (g) and 10.25(4)(d).

(c) *Additional prohibitions for bear hunting and bear dog training.* No person may:

1. Place, use or hunt with the aid of bait material, in excess of 10 gallons for attracting wild animals or containing honey, bones, fish, meat, solid animal fat or parts of animal carcasses.

2. Except as allowed by par. (b) 1. and 6., place, use or hunt with the aid of bait material, other than scent, which is contained within or containing metal, paper, plastic, glass, wood or other similar processed materials.

3. Place, use or hunt with the aid of bait material, within 50 yards of any trail, road or a campsite used by the public.

4. Hunt with the aid of bait material, other than scent, without possessing a valid unused bear harvest permit.

5. Hunt or pursue animals in an area baited in violation of this subsection or in violation of the feeding prohibitions of s. NR 19.60, unless the area is completely free of bait or feed material for at least 10 consecutive days prior to hunting, pursuing animals or dog training.

Note: Removal of unlawfully placed bait or other feeding material does not preclude the issuance of a citation for the original placement of the unlawful baiting or feeding material.

Section 7. NR 19.001(4) is created to read.

NR 19.001(4) "Bird feeding devices and structures" means any device or structure that has the primary purpose of attracting or feeding birds or small mammals.

Section 8. NR 19.001(15m) is created to read.

NR 19.001(15m) "Small mammals" mean all mammals other than bear, deer and elk.

Section 9. NR 19.60 is created to read.

NR 19.60 Feeding of wild animals. (1) PROHIBITIONS. (a) Except as provided in this section or by permit issued under s. NR 12.06(11), no person may place, deposit or allow the placement of any material to feed or attract wild animals.

(b) Any person placing material or feed to attract wild animals in violation of this section shall remove all food or other material illegally placed or deposited when ordered by the department to do so.

(c) Landowners, lessees or occupants of any property where feeding in violation of this section occurs shall remove all food or other material illegally placed or deposited upon notification by the department of the illegal activity.

Note: Elevated feeders that are designed to deposit food on the ground are prohibited.

(2) EXCEPTIONS. This paragraph does not prohibit:

(a) Material placed solely for the purpose of attracting and feeding wild birds and small mammals when placed in bird feeding devices and structures at a sufficient height or design to prevent access by deer and only when the structures and devices are no further than 50 yards from a dwelling devoted to human occupancy. If the department determines that wild deer are utilizing bird feeding devices or structures, the devices or structures shall be enclosed or elevated higher to prevent access by deer.

(b) Feeding of wild animals, other than deer, elk or bear, by hand is allowed if:

1. Feed is placed not more than 30 feet away from the person feeding.
2. The person feeding makes all reasonable attempts to clean up the unconsumed food before moving a distance greater than 30 feet from the deposited food.

(c) Food deposited by natural vegetation or found solely as a result of normal agricultural or gardening practices.

(d) Standing crops planted and left standing as wildlife food plots that may be used by wild animals.

(e) Food material placed for bear hunting or bear dog training as specified in s. NR 10.07(2).

(f) Food material placed for trapping as specified in s. NR 10.13.

(g) The use of decoys for non-hunting purposes.

(h) The placement of plain water for drinking or for bird baths.

(i) The use of scents provided the material is not accessible for consumption by deer or elk.

(j) Food or bait material placed or used for fish, reptiles, amphibians or arthropods provided the material is not accessible to bear, deer or elk.

Note: These feeding rules do not apply to captive wild animals held and licensed under ch. 169, Stats.

Section 10. INITIAL APPLICABILITY. The state legislature has delegated to the department rule-making authority in 2001 Wisconsin Act 108 to control the spread of Chronic Wasting Disease (CWD) in Wisconsin. CWD poses a risk to the health of the state's deer herd and citizens and is a threat to the economic infrastructure of the department, the state, its citizens and businesses.

Section 11. EFFECTIVE DATE. The rules shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

Section 12. BOARD ADOPTION. The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on _____.

Dated at Madison, Wisconsin _____

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
Scott Hassett, Secretary

(SEAL)

**ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD
REPEALING, AMENDING AND CREATING RULES**

The Wisconsin Natural Resources Board proposes an order to repeal NR 10.07(1)(g); amend NR 10.001(2) and (14); and to create NR 10.001 (7e), (23e), 10.07(2), 19.001(4) and (15m), and 19.60 relating to the regulation of baiting and feeding to control and manage chronic wasting disease.

WM-09-03

Analysis Prepared by Department of Natural Resources

Statutory Authority: § 29.014 , 29.063, 29.335, and 227.11, Stats.

Statutes Interpreted: § 29.063 and 29.335, Stats.

Sections 1 Amends the definition of bait.

Section 2. Defines decoy.

Section 3. Amends the definition of liquid scent.

Section 4. Defines scent.

Sections 5 and 6. Prohibits the use of bait statewide for hunting and provides exceptions for landowners in the eradication zone and for bear hunting by imposing bait site, permit and date restrictions, and also allows the use of liquid scents for deer hunting.

Section 7. Defines bird feeding devices and structures.

Section 8. Defines small mammals.

Section 9. Prohibits feeding of wildlife and outlines exceptions for birds and small mammals.

Section 1. NR 10.001(2) is amended to read.

NR 10.001(2) For the purposes of this chapter, "bait" means ~~honey and any solid or nonliquid~~ any material attractive used to attract wildlife including liquid scent.

Section 2. NR 10.001(7e) is created to read.

NR 10.001(7e) "Decoy" means the replica of an animal used to attract wild animals for the purpose of hunting, but does not include any food materials that can be consumed by any wild animal.

Section 3. NR 10.001(14) is amended to read.

NR 10.001(14) "Liquid scent" means any ~~nonsolid~~ liquid material except honey used to attract wild animals solely by its odor.

Section 4. NR 10.001(23e) is created to read.

NR 10.001(23e) "Scent" means any material except honey, used to attract wild animals solely by its odor.

Section 5. NR 10.07(1)(g) is repealed.

Section 6. NR 10.07(2) is created to read.

NR 10.07(2) BAITING. (a) *General prohibition.* 1. Except as provided in par. (b) or as authorized by a permit issued under s. NR 12.06(11), no person may hunt with the aid of bait, or place or use bait for the purpose of hunting wild animals or training dogs. Any bait placed or used under the authorization of this section or s. NR 12.06(11) may not contain parts of any animal.

2. No person may hunt or pursue animals in an area baited in violation of this subsection or in violation of the feeding prohibitions of s. NR 19.60, unless the area is completely free of bait or feed material for at least 10 consecutive days prior to hunting, pursuing animals or dog training.

Note: Removal of unlawfully placed bait or other feeding material does not preclude the issuance of a citation for the original placement of the unlawful baiting or feeding material.

(b) *Exceptions.* A person may hunt with the aid of bait or place or use bait in any of the following circumstances:

1. Bait may be placed in compliance with par. (c) between April 15 and the close of the bear season for hunting bear or training bear dogs during the open seasons for these activities, provided that when the bait is placed and when the bait site is checked or re-baited, the bait is totally enclosed in a hollow log, a hole in the ground or stump which is capped with logs, rocks or other naturally occurring and unprocessed substances which prevents deer from accessing the material.

2. Liquid scent used for hunting of bear or training bear dogs from April 15 to the end of bear season does not need to be enclosed in a hollow log, a hole in the ground or stump.

3. This subsection does not prohibit hunting with the aid of material deposited by natural vegetation or material found solely as a result of normal agricultural or gardening practices.

4. This subsection does not prohibit hunting over crops planted and left standing as wildlife food plots.

5. Scent may be used for hunting deer or elk provided the scent is not placed or deposited in a manner that it is accessible for consumption by deer or elk and non-liquid scents shall be removed daily at the end of hunting hours for deer established in s. NR 10.06(5). Two ounces or less of liquid scent may be placed or deposited in any manner for hunting game.

6. This subsection does not prohibit hunting in accordance with s. 29.337, Stats., with the aid of feed material placed in compliance with s. NR 19.60.

Note: Baiting for purposes of trapping is regulated by ss. NR 10.13(1)(b), 19.27, 19.275 and not this subsection, baiting for waterfowl is regulated by s. NR 10.12(1)(h) and not this section. This subsection does not prohibit hunting with the use of decoys except as already prohibited under ss. NR 10.12(1)(f) and (g) and 10.25(4)(d).

(c) *Additional prohibitions for bear hunting and bear dog training.* No person may when hunting bear or bear dog training:

1. Place, use or hunt with the aid of bait material, in excess of 10 gallons for attracting wild animals or containing honey, bones, fish, meat, solid animal fat or parts of animal carcasses.

2. Except as allowed by par. (b) 1. and 5., place, use or hunt with the aid of bait material, other than scent, which is contained within or containing metal, paper, plastic, glass, wood or other similar processed materials.

3. Place, use or hunt with the aid of bait material within 50 yards of any trail, road or a campsite used by the public.

4. Hunt with the aid of bait material, other than scent, without possessing a valid unused class A or a class B bear license under s. 29.184, Stats.

Section 7. NR 19.001(4) is created to read.

NR 19.001(4) "Bird feeding devices and structures" means any device or structure that has the primary purpose of attracting or feeding birds or small mammals.

Section 8. NR 19.001(15m) is created to read.

NR 19.001(15m) "Small mammals" mean all mammals other than bear, deer and elk.

Section 9. NR 19.60 is created to read.

NR 19.60 Feeding of wild animals. (1) PROHIBITIONS. (a) Except as provided in this section or by permit issued under s. NR 12.06(11), no person may place, deposit or allow the placement of any material to feed or attract wild animals.

[Drafter's Note: NR 12.06(11) is created in Clearinghouse Rule No. 03-016]

(b) Any person placing material or feed to attract wild animals in violation of this section shall remove all food or other material illegally placed or deposited when ordered by the department to do so.

(c) Landowners, lessees or occupants of any property where feeding in violation of this section occurs shall remove all food or other material illegally placed or deposited upon notification by the department of the illegal activity.

(d) Elevated feeders that are designed to deposit food on the ground are prohibited.

(2) EXCEPTIONS. This paragraph does not prohibit any of the following activities:

(a) Material placed solely for the purpose of attracting and feeding wild birds and small mammals when placed in bird feeding devices and structures at a sufficient height or design to prevent access by deer and only when the structures and devices are no further than 50 yards from a dwelling devoted to human occupancy. If the department determines that wild deer are utilizing bird feeding devices or structures, the devices or structures shall be enclosed or elevated higher to prevent access by deer.

(b) Feeding of wild animals, other than deer, elk or bear, by hand is allowed if:

1. Feed is placed not more than 30 feet away from the person feeding, and
2. The person feeding makes all reasonable attempts to clean up the unconsumed food before moving a distance greater than 30 feet from the deposited food.

(c) Food deposited by natural vegetation or found solely as a result of normal agricultural or gardening practices.

(d) Standing crops planted and left standing as wildlife food plots that may be used by wild animals.

(e) Food material placed for bear hunting or bear dog training as specified in s. NR 10.07(2).

(f) Food material placed for trapping as specified in s. NR 10.13.

(g) The use of decoys for non-hunting purposes.

(h) The placement of plain water for drinking or for bird baths.

(i) The use of scents provided the material is not accessible for consumption by deer or elk.

(j) Food or bait material placed or used for fish, reptiles, amphibians or arthropods provided the material is not accessible to bear, deer or elk.

Note: These feeding rules do not apply to captive wild animals held and licensed under ch. 169, Stats.

Section 10. Finding. The state legislature has delegated to the department rule-making authority in 2001 Wisconsin Act 108 to control the spread of Chronic Wasting Disease (CWD) in Wisconsin. CWD poses a risk to the health of the state's deer herd and citizens and is a threat to the economic infrastructure of the department, the state, its citizens and businesses.

Section 11. Review. The Department of Natural Resources will conduct a review and evaluation of this rule order two years following the effective date of these rules. The review will utilize the best available science to analyze the effectiveness of these rules to control and eradicate Chronic Wasting Disease in Wisconsin's free-ranging white-tailed deer herd. This results of this review and evaluation will be presented to the Natural Resources Board.

Section 12. Effective date. The rules shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

Section 13. Board adoption. The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on April 23, 2003.

Dated at Madison, Wisconsin _____

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
Scott Hassett, Secretary

(SEAL)

BEFORE THE STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

In the matter of a Secretary's Order pertaining to the prohibition on deer baiting and feeding in select counties to prevent the further spread of Chronic Wasting Disease and Bovine Tuberculosis.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

FINDINGS OF FACT

1. Portage, Juneau, Waushara, Calumet, Manitowoc, Adams, Marquette, Vernon, Richland, Sauk, Columbia, Crawford, Grant, Iowa, Dane, Jefferson, Waukesha, Lafayette, Green, Rock, Walworth and Racine counties have been found to meet one of the following criteria:
 - CWD eradication zones, CWD intensive harvest zones or herd reduction zones have been established in the county or a portion of the county, or
 - A CWD or bovine tuberculosis positive captive or free-roaming, domestic or wild animal has been confirmed since January 1, 1998 from the county, or
 - The county or portion of the county is within a 10 mile radius of a captive or free-roaming, domestic or wild animal that has been tested and confirmed to be positive for CWD or bovine tuberculosis since January 1, 1998.

CONCLUSION OF LAW

1. According to ss. NR 10.07(2)(e) and NR 19.60(4) Wis. Adm. Code, the department may, upon making the above findings, prohibit the practices of deer baiting and feeding in Portage, Juneau, Waushara, Calumet, Manitowoc, Adams, Marquette, Vernon, Richland, Sauk, Columbia, Crawford, Grant, Iowa, Dane, Jefferson, Waukesha, Lafayette, Green, Rock, Walworth and Racine counties.

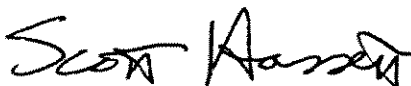
ORDER

1. Notwithstanding all other provisions of Ch. NR 10, Wis. Adm. Code, which remain in effect, baiting and feeding of deer shall be regulated by ss. NR 10.07(2) and NR 19.60 Wis. Adm. Code, in Portage, Juneau, Waushara, Calumet, Manitowoc, Adams, Marquette, Vernon, Richland, Sauk, Columbia, Crawford, Grant, Iowa, Dane, Jefferson, Waukesha, Lafayette, Green, Rock, Walworth and Racine counties.

Dated at Madison, Wisconsin, _____

8 SEPT 2003

STATE OF WISCONSIN
DEPARTMENT OF NATURAL
RESOURCES



By Scott Hassett, Secretary

Fiscal Estimate — 2003 Session

<input checked="" type="checkbox"/> Original	<input checked="" type="checkbox"/> Updated	LRB Number	Amendment Number if Applicable
<input type="checkbox"/> Corrected	<input type="checkbox"/> Supplemental	Bill Number	Administrative Rule Number WM-37-03(E)

Subject

Prohibition on deer Baiting and Feeding relating to the control of Chronic Wasting Disease in Wisconsin

Fiscal Effect

State: ☒ No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

- | | |
|--|---|
| <input type="checkbox"/> Increase Existing Appropriation | <input type="checkbox"/> Increase Existing Revenues |
| <input type="checkbox"/> Decrease Existing Appropriation | <input type="checkbox"/> Decrease Existing Revenues |
| <input type="checkbox"/> Create New Appropriation | |

☒ Increase Costs — May be possible to absorb within agency's budget.

☒ Yes ☐ No

☐ Decrease Costs

Local: ☒ No Local Government Costs

1. ☐ Increase Costs

☐ Permissive ☐ Mandatory

2. ☐ Decrease Costs

☐ Permissive ☐ Mandatory

3. ☐ Increase Revenues

☐ Permissive ☐ Mandatory

4. ☐ Decrease Revenues

☐ Permissive ☐ Mandatory

5. Types of Local Governmental Units Affected:

☐ Towns ☐ Villages ☐ Cities

☐ Counties ☐ Others

☐ School Districts ☐ WTCS Districts

Fund Sources Affected

☐ GPR ☐ FED ☐ PRO ☐ PRS ☐ SEG ☐ SEG-S

Affected Chapter 20 Appropriations


Assumptions Used in Arriving at Fiscal Estimate

This emergency rule (WM-37-03(E)) would ban deer baiting and feeding in counties of highest risk for CWD, TB and other infectious disease spread and establishment for the 2003 deer hunting seasons and beyond, until the rule expires. The rule also clarifies that baiting (10 gallons) is allowed in counties not affected by this rule nor is feeding prohibited.

It is not anticipated that the implementation of these rules will result in a fiscal impact above what could be absorbed within the agency's budget. The enforcement of these rules will be done as part of the regular duties of conservation wardens. However, there will be a workload impact, as enforcement of these regulations will likely result in the inability to enforce other resource laws, since the current budget will not allow the addition of seasonal wardens to assist in the enforcement of these new regulations.

Long-Range Fiscal Implications

None

Prepared By:	Telephone No.	Agency
Joseph Polasek	266-2794	Department of Natural Resources
Authorized Signature	Telephone No.	Date (mm/dd/ccyy)
	266-2794	09-04-03

Memo

FILE
2-3

TO: Senator Mary Panzer, Senate Majority Leader
Greg Hubbard – Chief of Staff

FROM: Senator Neal Kedzie – Chair, Environment and Natural Resources Committee

DATE: February 7, 2003

RE: 2003-04 Environment and Natural Resources Agenda

Dear Senator Panzer,

As per your request, I am providing you with general to detailed information regarding the agenda for the 2003-04 Senate Environment and Natural Resources Committee. The intent of this memo is to outline our legislative priorities on said issues as well as provide some insight on a variety of issues that the committee may have to deal with over the next two years.

This outline is not all-inclusive as unforeseen issues may arise throughout the legislative session. Rather, this is a thumbnail sketch of our high to low priority bills, as well as perennial issues that surface every session.

LEGISLATION BY THE CHAIR

Currently, we are working on several pieces of environment and natural resources legislation – some more significant than others, most are not lightning rods for controversy or partisanship but actually may spurn a positive environmental agenda from the Committee and for the Senate Republican Caucus.

Bill: LRB 1432

Topic: Environmental Audit and Results Program

History: Redraft of 2001 ASA 1 to Assembly Bill 479 – Rep. Marc Duff, author

Legislative History: Passed Assembly 97-2, no action by the Senate

Fiscal Effect: None, as the appropriation for the bill has been removed

Supporters: DNR, WI Manufacturers and Commerce, WE Energies, Sierra Club, WI Paper Council, Alliant Energy, WI Farm Bureau Federation

Summary

This bill will provide a mechanism for small and medium sized businesses to come into and maintain their compliance with Wisconsin law, and it also will create an expanded program for larger businesses who wish to try to exceed traditional environmental standards, and then give them more regulatory flexibility as a reward.

At least 30 states have some form of limited audit immunity statute. The concept allows a business or public entity to conduct a self-audit of their facilities to determine if they comply with the law. If they are not, they can reveal the results of the audit to regulators and agree to voluntarily eliminate the problem in a timely manner in return for reduced civil penalties

Bill: Senate Bill 29

Topic: "Special Wastes" use and immunity bill

History: Redraft of 2001 Assembly Bill 766 – Rep. Neal Kedzie, author at the request of the WI Department of Natural Resources

Legislative History: Passed Assembly Enviro. Committee 10-0, no action after that

Fiscal Effect: Minimal

Supporters: DNR, WI Transportation Builders Association, WI Paper Council, WI Energy Corp, WI Cast Metals Association

Summary

As a method to encourage new ways to recycle solid waste, DNR may grant a research waiver or an exemption from the requirements regarding the disposal or recycling of high-volume industrial wastes and certain other solid wastes, such as foundry sand, coal fly and bottom ash.

Under Senate Bill 29, those solid wastes that DNR has exempted from the normal disposal requirement are considered "special wastes" and may be characterized as suitable for use in public works projects. This bill requires DNR to maintain a list of those special wastes suitable for use in specified types of public works projects. The list may include conditions under which the wastes may be used in public works projects.

Under the bill, the current provisions granting immunity from liability apply to the use of those listed special wastes in public works projects if the conditions established by DNR for their use are met. In addition, the current law provisions prohibiting immunity for acts of reckless, wanton, or intentional misconduct or result in the death or injury of an individual apply.

Bill: LRB 0989

Topic: Well Drilling, Water Quality and Comprehensive c. 280 re-write

History: Redraft of 2001 LRB 3331/4 – No author but at the request of the WI Well Driller's Association

Legislative History: Public hearing before Senate Enviro/NR committee (2002)

Fiscal Effect: Minimal

Supporters: WI Well Drillers Association and WI DNR may be fine with it. The bill went through four drafts to (hopefully) address any agency or other group's concerns

Summary

The bill draft provides more statutory authority over the current department rules and provides a licensure mechanism for not only well drillers but all contractors who are drilling boreholes into Wisconsin's aquifers.

The regulation of all boreholes in the state would further the protection and supply of Wisconsin's Groundwater. The draft would regulate and license all contractors who drill a hole into the ground that is at least 10 feet deep and is deeper than it is wide.

The bill would provide a number of additional changes to Chapter 280:

- Establish in statute an advisory council to advise the department on products that are used surrounding wells and other drill holes. In addition the department would consult with the council on the interpretation of this statute and rulemaking.
- Create the definition of an environmental well.
- Create a well driller as a comprehensive drill license.
- Create additional licensure categories beyond well driller and pump installer:
 - Environmental well driller
 - Well point driver
 - Geothermal well driller
 - Dewatering well driller
 - Elevator Shaft Constructor
 - Water system inspector
 - Additional licensure categories may create by rule.
- Require that well abandonment be preformed by a licensed well driller
- Require out-of-state drillers & pump installers to be bonded for drill hole activities in Wisconsin
- Provide stricter enforcement provisions and additional requirements for emergencies, inspections and sampling.

Bill: Assembly Bill 12 (Kedzie Senate co-author)

Topic: Educational requirements for DNR foresters

History: Redraft of 2001 AB 695 – Rep. Don Friske, author

Legislative History: The Assembly and the Senate Committee on Environmental Resources passed this bill unanimously (2002)

Fiscal Effect: None

Supporters: WI County Forests Association, Gene Francisco – DNR, Timber Producers Association & Lake States Lumber Association

Summary

This bill requires every DNR forester to have received a bachelor's or higher degree in forestry from a school of forestry with a curriculum accredited by the Society of American Foresters or an equivalent degree from a school located in another country.

The educational requirements of this bill only apply to newly hired foresters. Current statutes do not require foresters employed by DNR to satisfy specified educational requirements.

Bill: Assembly Bill 13 (Kedzie Senate co-author)

Topic: Damaged Timber

History: Redraft of 2001 AB 600 – Rep. Don Friske, author

Legislative History: The Assembly and the Senate Committee on Environmental Resources passed this bill unanimously (2002)

Fiscal Effect: Minimal cost savings for counties

Supporters: WI County Forests Association, WI DNR, Timber Producers Association & Lake States Lumber Association

Summary

Under current law, the DNR may sell timber that has been damaged by fire or wind and that is located in a state forest or state park on the terms and in the manner that DNR considers is in the best interest of the state.

Assembly Bill 13 expands that authority to sell damaged timber to cover all lands under DNR's jurisdiction and to include damage caused by snow, hail, or ice. The bill also allows a county to sell timber damaged by fire, snow, hail, ice, or wind on the terms and in the manner that the county forestry committee determines is in the county's best interest.

MAJOR ISSUES BEFORE THE COMMITTEE

Groundwater Quantity and High Capacity Wells

This session, there is certain to be a great deal of legislative activity centered on groundwater quantity. Last session, the proposal by the Perrier Group to extract water from the certain, centralized areas of the state brought the issue of groundwater quantity and high capacity wells to the forefront of the Legislature.

Several high capacity well proposals were introduced – separately and in the 2001-03 budget – but did little to address an ever increasing and hotly debated issue. For all intents and purposes, Wisconsin groundwater laws have not been reviewed or updated in over 25 years. Times have changed, usage has changed and the time may be ripe for something to happen this session.

At present, several groups are working on conceptual statutory language to address Wisconsin's groundwater laws. Those groups include the WI River Alliance, WI Potato and Vegetable Growers, WI Municipal Environment Group and the DNR. Some are working together while others are working alone on some sort of legislative intent language and eventually, draft legislation.

While this may not be on the level of the isolated wetlands regulation bill, it may draw in many of the familiar groups and a certain sense of urgency. It is our intent, thus, to be at the point position of any proposed legislation and hopefully establish some type of consensus legislation, similar to what we have done with isolated wetlands, wetlands mitigation and the aforementioned environmental audit program legislation.

CLEARINGHOUSE RULES

Due to the change in the Administration and the political shift in the Legislature, we will be more vigilant of Clearinghouse Rules as the agency may attempt to advance the Administration's agenda via that method. At this time, however, many of the Rules moving through the process are holdovers from the previous Administration. That is not to say, though, that we are not concerned with some of the issues the DNR is and has been attempting to advance through the Legislature.

Issues such as NR 445 relating to substantially increasing the list of substances considered to as air toxins. Such a massive and comprehensive increase proposed by the DNR could significantly harm Wisconsin business and industry and we intend to keep tabs on the actions by the agency for this rule. Other issue include increased regulations on mercury emissions for coal-fired power plants, increase of fees on waste haulers and landfill operators, increased fees for hunting and fishing licenses (may be done in the budget) and, of course, continued work and implementation of rules pertaining to Chronic Wasting Disease.

That is merely a snapshot of the Rules that are most certain to be referred to the Committee and is certainly not all-inclusive. Our charge on this committee will be to carefully scrutinize every new rule and rule change and monitor DNR's agenda quite closely.

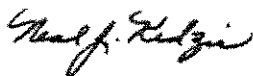
CONFIRMATIONS

As you know, our committee is at the center of some of the most high profile appointees by the Governor. In regards to DNR Secretary Scott Hassett, his confirmation hearing will more that likely happen sometime in early Spring, but we are certainly in no hurry to do that. Mr. Hassett seems like a fine individual who knows a great deal about hunt and fish issues, but has very little exposure to environmental regulation. That is of concern to us and may create an agency that is run by the underlings of the Secretary.

The Natural Resource Board appointees are also before the committee and it is not our intent to move on any of the hearing for those appointees at this time. We believe that Governor Doyle unscrupulously wielded his power in attempting to replace two of the three current appointees and resolve that those who have been confirmed should be allowed to remain on the Board to the end of their term.

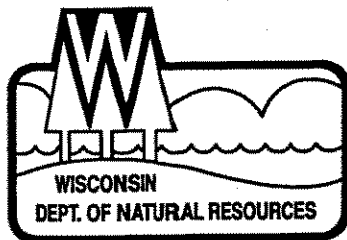
The third appointee replaces a provisional appointee and, regrettably, is serving and taking votes on the Board. The only option would be to hold a hearing and then reject that appointee. However, rejecting an appointee – as we understand it – requires some blatant misrepresentation or unsavory activity by the appointee.

On all appointees, however, we may defer to any directive offered by Senate Republican leadership. Thank you for your review and consideration of our agenda and please contact me if you have any questions or concerns.



Neal Kedzie

Chair, Senate Environment and Natural Resources Committee
State Senator
11th Senate District



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor
Scott Hassett, Secretary

101 S. Webster St.
Box 7921
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April, 2003

TO: People interested in Great Lakes fisheries
FROM: Bill Horns, Great Lakes Fisheries Specialist

This is an update on some of the issues facing us on the Great Lakes. If you have questions or comments about the topics discussed here or any other issues related to Great Lakes fisheries, contact me by phone (608-266-8782), FAX (608-266-2244), or e-mail (hornsw@dnr.state.wi.us). We also maintain a Lake Michigan web page: <http://www.dnr.state.wi.us/org/water/fhp/fish/lakemich/index.htm>.

The creel numbers are in for Lake Michigan. According to our annual creel survey, the total harvest of salmon and trout from Wisconsin waters of Lake Michigan was 527,000 fish in 2002, up from 379,000 in 2001. The chinook salmon harvest of 275,000 was the highest since 1987. You remember that the four states cut chinook stocking 27% starting in 1999. Are we seeing great fishing because the stocking cuts kept predation in line with the food supply, resulting in better growth and better survival? More creel survey results can be found on the Department's Lake Michigan web page.

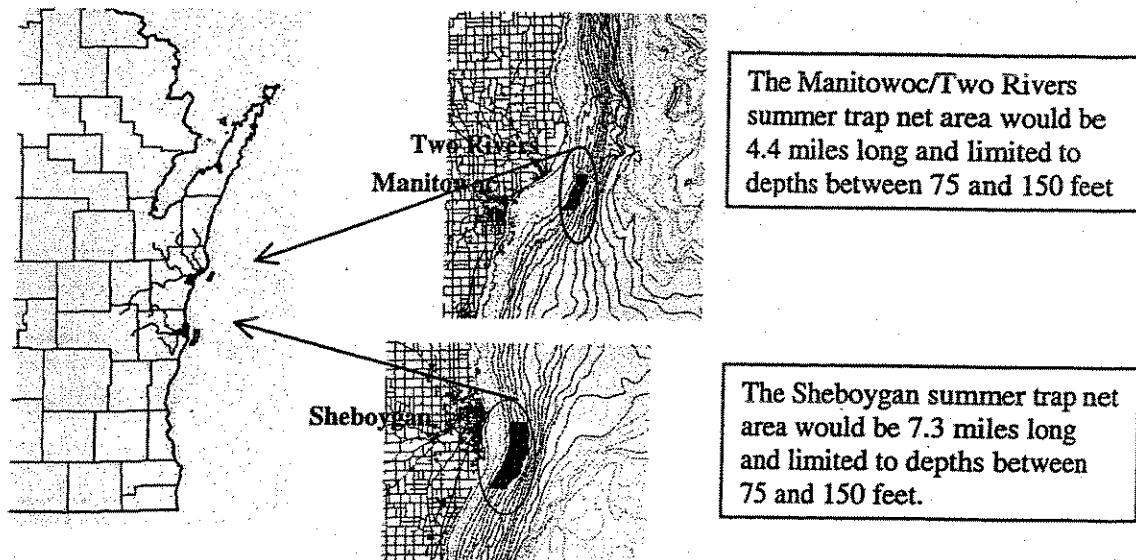
Hearings on commercial rules. The turnout was well above average for public hearings in January on rule proposals related to commercial harvest limits for smelt (proposed NRB Order FH-12-03) and whitefish trap netting south of Kewaunee (proposed NRB Order FH-46-02). Hearings on the two rule proposals were held concurrently in Green Bay, Cleveland, and Milwaukee, with a combined attendance of 175. We also received a very large number of written comments. In response to the oral and written comments, the Department revised both rule proposals.

Proposed NRB Order FH-12-03 was revised to close commercial smelt fishing in Green Bay and was adopted by the Natural Resources Board. The overwhelming majority of individuals who attended the hearings or submitted written comments recommended closure, at least temporarily, of the commercial harvest of smelt from Green Bay. Recognizing the strength of public feeling on this issue, and noting that the commercial harvest from Green Bay has fallen dramatically (11,665 pounds in 2001 and 291 pounds in 2002), the Department recommended closure of the commercial smelt harvest on Green Bay until 2008. Proposed NRB Order FH-12-03 was modified accordingly, and adopted by the Natural Resources Board on April 22. In adopting this rule the NRB directed the Department to initiate annual assessments of the smelt population in Green Bay. Many hearing comments recommended closure of the recreational harvest of smelt from Green Bay, and the Department will advance a proposed rule to do that.

More hearings on the whitefish trap net rule. Opinions were more mixed regarding the Department's proposal to open most of the area south of Kewaunee to whitefish trap netting during the summer months. Most sport trollers who commented on this issue felt the trap nets would be a nuisance and dangerous¹, but commercial fishers and some sport trollers supported the rule proposal. The Department is charged by the legislature and by the Natural Resources Board with managing fisheries to provide both sport and commercial fishing opportunities. Chapter NR 1 of the Department's Administrative Code (*Natural Resources Board Policies*) states, in section NR 1.01(2), "The goal of fish management is to provide opportunities for the optimum use and enjoyment of Wisconsin's aquatic resources, both sport and commercial". In consideration of hearing comments and this policy guidance, the Department asked the Natural Resources Board to approve hearings on a modified rule proposal. The modified rule would create two

¹ One of the major concerns of those who opposed the rule was safety. To help us evaluate this issue, please let me know of any written reports (e.g., newspaper stories, police reports, etc.) of incidents in which trap nets have caused injury or death on the Great Lakes.

deep-water summer trap netting areas (see illustration below). It would also limit to three the number of trap nets that could be used by each commercial license holder during the summer (June 29 through Labor Day) south of Kewaunee and would retain the trap net marking requirements in the original rule. The hearings will be held in Milwaukee (May 14, 7:00 p.m., UW-Milwaukee WATER Institute, 600 E. Greenfield Ave., Milwaukee, WI) and Cleveland (May 15, 7:00 p.m., Lake Michigan Conference Room, Lakeshore Technical College, 1290 North Ave., Cleveland, WI). Written comments submitted by May 19 will be included in the hearing record.



Unavoidable stocking reductions. The cost of renovating the Wild Rose State Fish Hatchery and reduced water availability at Kettle Moraine State Fish Hatchery will require some stocking cuts, but most of the Great Lakes stocking program will be unaffected. We expect to maintain annual stocking of 450,000 brook trout, brown trout, lake trout, and splake for Lake Superior and over 3,400,000 brown trout, chinook salmon, coho salmon, and rainbow trout (including steelhead) for Lake Michigan. **Wild Rose renovation.** For the next two years, \$168,000 of Salmon Stamp revenues will be used each year to help initiate the renovation of Wild Rose State Fish Hatchery². That amounts to around 14% of annual Salmon Stamp revenues. Because those funds will not be available for other things, some assessment activities (including creel surveys) will be reduced or eliminated and some stocking cuts will be needed. During the next two years the following stocking cuts or changes are planned. In Lake Superior we will 1) reduce splake stocking from 120,000 to 80,000, 2) reduce brown trout stocking from 150,000 to 80,000, and 3) reduce chinook salmon stocking from 280,000 to 200,000. In Lake Michigan we will 1) eliminate the stocking of 62,500 brook trout, 2) eliminate the stocking of 165,000 fall-fingerling brown trout of the St. Croix strain, 3) stock all cohos produced at the Bayfield State Fish Hatchery as fall-fingerlings rather than as spring yearlings. **Kettle Moraine Springs water.** All of the 500,000 yearling steelhead produced for stocking in Lake Michigan come from the KMS hatchery. After several years of lower than normal rainfall, the ground water supply to KMS hatchery has fallen. Consequently, fish production at the KMS hatchery must be reduced to assure that the yearlings are large and healthy. This means that the number of steelhead stocked in Wisconsin waters of Lake Michigan in 2004 will be 350,000 instead of the usual 500,000. Each of the three strains (Skamania, Chambers Creek, and Ganaraska) will be reduced equally. We do not know when full production will be restored.

Exceptional chinook runs at Strawberry Creek justify moving some stocking to other sites. For the last three years the fall flow of water in Strawberry Creek has been enhanced by pumped water, in a project funded by Salmon Stamp revenues. The enhanced flow, together with good survival of salmon in the lake, has resulted in fall chinook salmon runs up to the Strawberry Creek spawning facility that far exceed our fish spawning needs. As a result the number of fingerlings released from the Strawberry Creek pond this spring has been reduced, and stocking at other Door County stocking sites has been increased.

The Department has proposed increases in fishing and hunting license fees. For information about proposed fee increases, visit the following web page: <http://www.dnr.state.wi.us/org/caer/ce/publications/fwfactsheet.pdf>

² This expenditure is just a down payment on the needed renovation, which will cost upwards of \$20,000,000. The Wild Rose SFH is our primary producer of chinook salmon for Lake Michigan, and produces all of the seeforellen brown trout and most of the Wild Rose strain brown trout for Lake Michigan.

April 16, 2003

To The NRB,

I am putting forth the following plan for a very limited and restricted method that will allow baiting and feeding of deer with minimal risk of transmission of CWD from deer to deer

This plan will allow the DNR to once and for all, be able to restrict and control "feeding" and generate revenue with legislation, with a permit system designed to sustain the herd in the North during tough winters yet not artificially enhance the herd in T-Zones which are already over subscribed.

I have prepared a before and after chart which illustrates just what a radical change and how restrictive this new proposed plan is.

This plan would eliminate any North / South highway dividing line which makes no sense whatsoever.

I would hope all of you would objectively consider this proposal. Keep in mind there is no scientific proof that baiting and unrestricted feeding causes the transmission of CWD. This has particular importance in that current surveillance has not turned up CWD elsewhere in the state.

As Social Scientist Professor Tom Heberlein has said, "Feeding wildlife and baiting have become an important form of recreational use of wild game. Rather than to arbitrarily ban such practices under a hypothesized negative impact on wildlife, it is better to let people enjoy this activity and pay for their share for the risk and resulting necessary research and management."

You will also recall the original reason for the ban was the DNR had no idea where CWD might manifest itself elsewhere in Wisconsin.

The last thing the NRB wants is for legislators to make fish and game rules. You have seen what JCRAR has come up with. If the NRB does not come up with a reasonable, low risk plan, I am sure the legislature will.

This plan totally changes the baiting and feeding methodology and practices that were in place when the NRB banned them in June of 2002. This plan will not congregate animals in any way. Rather it forces animals to scatter. While the methods of baiting and feeding heretofore forced deer to a specific point (i.e. pile) the new plan forces deer, apart, albeit in the "general vicinity", of a viewing or hunting site.

In June of 2002, we were told that the DNR estimated that if we banned baiting, the potential drop in the antlerless harvest would be 5 percent. This was based on the northern forest. The conclusion was that loss of baiting would not jeopardize the ability to control the deer herd. Well, the bow kill was down 70% in the North and the T-Zones are still with us. Additionally, the herd estimate was off by about 40 percent, but we were told that this estimate could be off by plus or minus 20%. This leads me to believe there are credulity problems with the DNR information we are given. The 1993 DNR baiting survey results show only 21% of gun numbers and 32% of bow hunters used bait. Given this. . . baiting is not widely practiced and therefore will minimize the theoretical and hypothetical risk of nose to nose transmission from deer to deer. This is especially poignant with the proposed rule requirement of not allowing placement of bait in a pile.

With the reduction of the amount of food, the seasons imposed, the permit system, and the reductions in the number of sites a hunter can bait, the risk of congregating deer in a small area where nose to nose contact may occur is all but eliminated. This will be an effective plan that will not jeopardize our beloved deer herd, satisfy the sociology of our deer hunters who wish to use bait, allow deer viewing by the thousands of citizens throughout the state that enjoy their activity, and eliminate the turf battles of the private landowner / public land hunter.

James E. Tiefenthaler, Jr.



PROPOSED BAITING AND FEEDING PLAN

DATE: APRIL 15, 2003

BY: JAMES E. TIEFENTHALER, JR.
VICE-CHAIRMAN NATURAL RESOURCE BOARD

BAITING

PURPOSE To attract deer to the general vicinity of a hunting site while not congregating animals.

	PROPOSED NEW RULE	EXISTING RULE
AMOUNT	2 Gallons per 40 Acres	10 Gallons Unlimited Hunting Sites
PRIVATE / PUBLIC LAND RESTRICTION	a) Private Land 2 Sites per 40 acres No permit required b) Public Land 1 Site only DNR permit is required	Not Regulated
SEASON	Opening day of deer bow season until January 3 rd	Not Any
PLACEMENT	Disbursed over a minimum 20'x 20' Area on the ground	In a pile
T-ZONES	No Restriction	No Restriction
MANITOWOC COUNTY	Prohibited for three (3) years	Not Applicable

FEEDING

PURPOSE

The artificial placement of an edible food source, either solid or liquid, to attract deer for:

- a) Wildlife Viewing
- b) Deer Sustenance, Herd Enhancement and Increased Antler Development

	PROPOSED NEW RULE	EXISTING RULE
AMOUNT	<ul style="list-style-type: none"> a) 1 Gallon per site b) 2 Gallons per 40 acres 	Unlimited Unlimited (Note: 1,000 # or more per week year round is not uncommon in the North)
PRIVATE / PUBLIC LAND RESTRICTION	Private Land <ul style="list-style-type: none"> a) Within 75 yards of an occupied habitable dwelling b) Not allowed without DNR permit Public Land <ul style="list-style-type: none"> a) Within 75 yards of an occupied habitable dwelling with DNR permit b) Not allowed without DNR permit 	No Restriction
SEASON	January 4 th to April 15 th	All Year
PLACEMENT	* Disbursed over a minimum 20' x 20' area on the ground	Not prohibited – troughs, bunk feeders, automatic feeders
T-ZONES	No feeding shall be allowed within any T-Zone	No Restriction
MANITOWOC COUNTY	Prohibited for three (3) years	Not Applicable

* NOTE: Automatic feeders, troughs, bunk type feeders and any other device in which feed is placed is prohibited.

HOW MUCH CORN WILL HUNTERS THAT BAIT REALLY PUT ON THE GROUND UNDER THE NEW PROPOSAL?

BOW HUNTERS

Number of Hunters (Estimated 2002) – 160,000

Between 32% and 40% Used Bait – 64,000

Amount of Bait at 2 Gallons Per Hunter If All Hunters Baited on the Same Day
TOTAL: 128,000 Gallons

Land Area of Wisconsin = 35,700,000 Acres

Therefore this amounts to: .003 Gallons Per Acre
.013 Gallons Per 40 Acres
.057 Gallons Per 160 Acres

Season Length – About 80 Days

(NOTE: Last season bow harvest decreased 70% in the North in 2002)

GUN HUNTERS

Number of Hunters (Estimated 2002) – 585,000

Between 16% and 21% Used Bait – 122,850 Hunters

Amount of Bait at 2 Gallons Per Hunter
TOTAL – 245,700 Gallons

.006 Gallons Per Acre
.027 Gallon Per 40 Acres
1.101 Gallons Per 160 Acres

Season Length – 9 Days

(NOTE: Harvest declined by about 50,000 deer statewide in 2002)

1992 DEER BAITING SURVEY

This survey looks at the issue of baiting deer. In particular, we are interested in your opinions of and your experiences with hunting over bait. Even if you do not hunt over bait, your responses are very important. Please try to answer this survey as completely and accurately as possible.

So that everyone who receives this questionnaire has the same understanding of what is meant by "bait" and "hunting over bait," the following definitions apply to deer baiting in Wisconsin:

BAIT: Any edible solid or liquid material capable of luring, attracting or enticing deer.

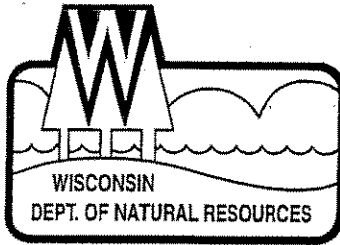
It does not include deposited natural vegetation, such as fallen apples, unharvested crops or scent lures.

HUNTING OVER BAIT: Includes hunting over an area containing bait.

Hunting over an area containing natural vegetation, planted wildlife food plots or agricultural crops is not considered hunting over bait as long as the vegetation or edible material has not been gathered and/or moved, concentrated or arranged in any artificial manner.

IN ADDITION: It is illegal to hunt over a baited area containing more than 10 gallons of bait.

However, there is no limit to the amount of food which can be put out as long as the purpose is for non-hunting enjoyment.



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor
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February 14, 2003

Chronic Wasting Disease and the Science in support of the Ban on Baiting and Feeding Deer.

Timothy R. Van Deelen Ph.D.
Wisconsin DNR Research

Summary

Reliable science provides support for a ban of baiting and feeding of white-tailed deer to reduce disease risks for Chronic Wasting Disease (CWD). Peer-reviewed research papers published in reputable scientific journals indicate the following:

- CWD is transmitted laterally (live diseased deer infect other deer)
- Deer can get CWD by ingesting something contaminated with the disease prion
- CWD prions may be shed in feces and saliva
- Disease course and symptoms indicate high potential for transmission where deer are concentrated
- Evidence from captive situations indicates that deer can get CWD from highly contaminated environments.
- Baiting and Feeding causes *unnatural* concentration of deer
- Reduction of contact through a ban on baiting and feeding is likely very important to eradicating or containing a CWD outbreak.
- Baiting and feeding continues to put Wisconsin's deer herd at risk to other serious diseases

In addition, experts in CWD, wildlife disease and deer nutrition support bans on baiting and feeding as part of a comprehensive strategy to prevent and/or manage CWD.

Under a baiting and feeding ban, disease outbreaks are more likely to be smaller in scale and more apt to be contained or eliminated. With the long CWD incubation period and other factors that make discovery of a new outbreak difficult, an outbreak that is already widespread when detected because of baiting and feeding may not be able to be contained or eliminated.

This document provides details and explicit links to the supporting science.

Chronic Wasting Disease and the Science behind the Ban on Baiting and Feeding Deer.

Some critics claim that there is no scientific support for the judgment that resulted in the ban. **This is simply untrue.** In this document, I review some of the scientific evidence in support of the baiting and feeding ban.

The science in support of the ban on baiting and feeding is strong and comes from a number of diverse scientific sub-disciplines (veterinary medicine, wildlife ecology, biochemistry, physiology, etc.). Consequently, there is no single comprehensive study or paper that, by itself, demonstrates the CWD-related effects of baiting and feeding of wild deer (good or bad). Evaluating the science relative to baiting and feeding requires integration of scientific evidence from several different sub-disciplines.

The **quality of scientific evidence** is an issue for some critics who claim that other science or other experts fail to support the ban. It is also an issue in trying to reach an objective scientific judgment. In keeping with established scientific practice, I consider articles published in reputable, peer-reviewed, scientific literature to be of the highest quality. Peer-review insures that articles have been rigorously evaluated and endorsed by qualified specialists. A secondary level of scientific rigor is the unpublished opinion or unpublished research of recognized experts working on the topic of interest. An example of this would be the opinion or unpublished research on CWD transmission from investigators who have established their expertise through peer-reviewed publication on other CWD-related topics. A very distant third level of quality is the unpublished opinion of recognized experts working on distantly related topics. Again, scientific expertise is demonstrated by frequent publication in reputable peer-reviewed scientific journals.

The following is a partial list of scientific evidence that suggests that baiting and feeding of wild deer elevates the risk of CWD transmission. This list focuses almost entirely on disease risks posed by CWD **although other diseases (e.g. Bovine Tuberculosis) may pose even greater risks** and there are many other reasons (e.g. ecological, social, nutritional) why baiting and feeding deer is inappropriate management. **This list is intended to be explicit in its links to peer-reviewed science.** Complete literature citations are included at the end of the document for readers who want to read the original scientific articles.

- **CWD is transmitted laterally (live diseased deer infect other deer)**

Researchers who have studied CWD epidemics in both captive and free-ranging deer populations have determined that CWD is both contagious and self-sustaining (meaning that new infections occur fast enough for CWD to persist or increase over time despite the more rapid deaths of the diseased individuals; Miller et al 1998, 2000). Supporting evidence comes from observational data (Williams and Young 1992; Miller et al. 1998, 2000) experimental data, and epidemiological models fit to observed prevalences in free-living deer (Miller et al. 2000, Gross and Miller 2001, M. W. Miller unpublished in Williams et al. 2002). These studies suggest that observed prevalences and rates of spread of CWD in real populations could not occur without lateral transmission. For example, maternal transmission (doe to fawn) if it occurs, is rare and cannot explain most cases where epidemiologic data are available (Miller et al. 1998, 2000). Similarly, indirect lateral transmission (e.g. from a contaminated environment) may require unusually high levels of contamination (see below; Williams et al. 2002). Nonetheless, emerging research from Colorado suggests that indirect lateral transmission from environmental contamination appears to play a role in sustained and recurrent epidemics (Miller 2002).

- **Deer can get CWD by ingesting something contaminated with the disease prion**

Six mule deer fawns were fed a daily dose of 2g (0.07 ounces) of brain tissue from CWD-positive mule deer in a tightly controlled experiment for 5 days. Another three were fed the same doses using brain tissue from CWD-negative mule deer. All deer were held separately in indoor pens that had never

before held deer. The fawns were then killed and necropsied at specific intervals 10 to 80 days post-inoculation. At 42 days and later post inoculation, all fawns dosed with CWD-positive tissue tested positive for CWD prions in lymph tissues associated with their digestive tracts (Sigurdson et al. 1999). Other transmissible spongiform encephalopathies (TSEs; Kuru, transmissible mink encephalopathy, bovine spongiform encephalopathy[BSE]) appear to be transmitted through ingestion of prion-infected tissue as well (Weissmann et al. 2002). Due to the human health crisis associated with eating BSE-infected beef in Europe, many other researchers working with TSEs, including CWD (Sigurdson et al. 1999, 2001), have traced the movements of infectious prions of orally-infected animals through the lymph tissue embedded in the intestinal lining, into nervous tissues associated with the digestive tract (e.g. Maignien et al. 1999, Beekes and McBride 2000, Heggebo et al. 2000, Huang et al. 2002) and eventually to the brain via the nervous system (Sigurdson et al. 2001, Weissmann et al. 2002). Experimental studies using hamsters have shown that prions can infect through minor wounds in the skin (Taylor et al. 1996) and that infection through minor wounds on the tongue was more efficient than infection from ingestion (Bartz et al. 2003). These studies not only demonstrate that an oral route of infection is possible, but are beginning to provide specific details about the pathways involved in the movement of infectious prions into the central nervous system and other organs (Weissmann et al. 2002).

- **CWD prions may be shed in feces and saliva**

Following oral exposure, prions associated with many TSEs (Maignien et al. 1999, Huang et al. 2002) including CWD (Sigurdson et al. 1999; Miller and Williams 2002 and Spraker et al. 2002 cited in Williams et al. 2002) both accumulate and replicate in the lymph tissues associated with the gastrointestinal tract – particularly in lymph tissues in contact with the mucosa lining the inside of the intestines (e.g. Peyer's patches, Weissmann et al. 2002). In infected deer, CWD prions also accumulate in the pancreas and various other glands of the endocrine system (Sigurdson et al. 2001). Experiments with hamsters demonstrated that infectious prions can travel from the brain to the tongue along tongue-associated cranial nerves (Bartz et al. 2003). During digestion, the liver, pancreas, intestinal mucosa, and other glands secrete chemicals needed for digestion (Robbins 1983) and cells lining the inner surface of the intestine continuously die and slough off providing potential physical mechanisms for prion shedding into the intestines (others are likely). This is evidence that infectious prions are likely shed in the feces and saliva (Sigurdson et al. 1999).

- **Disease course and symptoms indicate high potential for transmission where deer are concentrated**

Appearance of CWD symptoms in an infected deer lags initial exposure by a variable time period on the order of roughly 12-24 months or more ([E. S. Williams and M. W. Miller unpublished; E. S. Williams, M. W. Miller, and T. J. Kreeger unpublished] cited in Williams et al. 2002). Once clinical symptoms are observed, deer enter a symptomatic phase that may last on average 1-4 months before they invariably die (Williams et al. 2002). Symptoms are initially subtle but eventually include behaviors likely to contaminate a site with bodily fluids (e.g. excess urination, excess salivation including drooling and slobbering, and uncontrollable regurgitation, Williams et al. 2002). Deposition of feces increases with concentration of deer activity. This is both obvious and intuitive and pellet group counts have been used as an index of deer density since the 1940's (Bennet et al. 1940). During winter, northern deer defecate about 22 times a day (Rogers 1987). At least one study (Shaked et al. 2001) has reported detection of an altered form of the infectious prion in the urine of hamsters, cattle, and humans with TSEs. This altered form, while not as virulent, produced sub-clinical prion infections following experimental inoculation. Shedding of infectious prions is likely progressive during the course of disease from infection to death (Williams et al. 2002). Replication and presence of infectious prions in gut-associated lymph tissue early in the incubation (Sigurdson et al. 1999, Weissmann et al. 2002) and epidemiological modeling (M. W. Miller unpublished cited in Williams et al. 2002) suggest that shedding precedes the onset of symptoms in both elk and mule deer.

supplemental feeding of deer – practices that were likely crucial to the establishment of self-sustaining TB in the deer population” (O’Brein et al. 2002 and citations within).

In oral presentations given to the Texas chapter of the Society of Range Management (Oct. 6 2000) and to the Southeaster Deer Study Group (Feb. 19 2001) by Dr. Robert D. Brown, Professor and Head of the Department of Wildlife and Fisheries Sciences at Texas A&M University, Internationally recognized expert on deer and deer nutrition...

“One of the major points of this paper is the concern over transmission of disease. It amazes me that we have not done more studies in Texas on disease transmission at food plots and deer feeders, whether they be for supplementing the deer or for baiting. We know that in 1994 tuberculosis (TB) was first detected in wild deer in Michigan. It is now in a 5-county area, and has spread to carnivores and dairy herds”...”In Wyoming and around Yellowstone Park, brucellosis is wide spread among cattle, elk, and bison, the latter two species being concentrated on feeding grounds in the winter. Likewise, Chronic Wasting Disease (CWD) has now been observed in free-ranging elk and mule deer in several western states. Since CWD is passed animal to animal, concentrations caused by supplemental feeding is believed to increase the spread of the disease” (Brown Unpublished).

In a report issued by a panel of internationally recognized wildlife disease experts who reviewed Colorado's CWD management program...

“Regulations preventing...feeding and baiting of cervids should be continued” (Peterson et al. 2002).

In a comprehensive review of the ecological and human social effects of artificial feeding and baiting of wildlife prepared by the Canadian Cooperative Wildlife Health Centre, Department of Veterinary Pathology, University of Saskatchewan...

“Significant ecological effects of providing food to wildlife have been documented through observation and experimentation at the individual, population, and community levels. The increased potential for disease transmission and outbreak is perhaps of greatest and immediate concern; recent outbreaks of bovine tuberculosis and chronic wasting disease in Canada and the United States giving credence to this point. Nevertheless, even if disease is prevented, other significant ecological concerns exist” (Dunkley and Cattet 2003, p. 22).

Review and Acknowledgments

To insure that this document accurately reflects the scientific knowledge of prion disease, CWD, and deer biology, this document was reviewed by the following specialists (position and expertise follows each name). I thank them for their time. :

- Judd Aiken Ph.D. (Professor of animal health and biomedical sciences, UW-Madison; *prion diseases*)
- Valerius Geist Ph.D (Professor Emeritus, Department of Environmental Science, University of Calgary; *ecology behavior and management of deer*)
- Julia Langenberg DVM (Wildlife Veterinarian, Wisconsin DNR; *CWD, wildlife diseases*)
- Nohra Mateus-Pinilla DVM, Ph.D. (Research Epidemiologist, Illinois Natural History Survey, University of Illinois; *wildlife diseases, epidemiology*)
- Nancy Mathews Ph.D. (Assoc. Professor of wildlife ecology, UW-Madison; *deer ecology and behavior*)
- Keith McCaffery M.S. (Deer specialist, Wisconsin DNR, retired; *deer ecology and management*)
- Robert Rolley Ph.D. (Population Ecologist, Wisconsin DNR; *population dynamics, deer management*)

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DATE: April 15, 2003

TO: Natural Resources Board

FROM: Sean M. Strom, DNR Wildlife Toxicologist

SUBJECT: Alternative CWD Hypotheses: The Role of metals such as cadmium, copper, and manganese

Chronic wasting disease (CWD) is a nervous system disease of deer and elk that belongs to the family of diseases known as Transmissible Spongiform Encephalopathies (TSE). As the name implies, this disease is transmissible, indicating that it can be spread from one animal to another. Metal deficiencies, as well as excess levels of metals, are not transmissible from one adult animal to another. Because the current state of the science indicates that CWD is transmissible, it would not be prudent for the Department to support other minority theories.

Chronic wasting disease is both infectious and contagious, but specific details on the transmission of the disease are not well-understood (Williams et al. 2002). However, science suggests that contact between infected and non-infected animals via saliva, urine, and feces is the most likely route of transmission. Data from captive cervid studies (Williams et al. 2002) and field data from wild cervids provide strong evidence that animal-to-animal transmission is the primary form of infection in susceptible animals. In addition, the cluster-like pattern of disease in Wisconsin is strongly indicative of an infectious disease.

The following provides information regarding various alternative hypotheses involving metals and CWD.

1. Regarding the relationship between manganese and copper being a causative agent for CWD?

A hypothesis that has received attention involves the theory that high levels of manganese in conjunction with low levels of copper play a role in the onset of disease. Indeed, there has been some interesting research recently examining the relationship between cellular levels of manganese and copper with prion protein function. Although it may be possible such environmental factors play a role as a co-factor in the development of clinical disease, there are no data that supports the hypothesis that this relationship is the causative agent. Much more research needs to be done examining the potential confounding effect of manganese/copper levels and CWD.

2. Is it possible that conditions described in the Mn-Cu hypothesis exist in southern Wisconsin where CWD was found?

It is unlikely since the buffering capacity of the soil and water in southwestern Wisconsin would likely decrease the bioavailability of metals such as manganese. Furthermore, it has been suggested that pine needles make up a significant portion of the diet of deer and elk in the CWD endemic area of Colorado and these pine needles contain excessive concentrations of Mn (although there is no basis for this statement) and this exacerbates the high Mn-low Cu scenario. It is unlikely that pine needles make up a significant portion of the diet of deer in southern Wisconsin.

3. What data exists to support these theories?

Very little hard scientific evidence has been provided to support these hypotheses. No regimented lab studies have been carried out supporting these hypotheses. The majority of the data presented in publications by Mr. Mark Purdey is circumstantial in nature. In addition, much of his work examining the relationship between Mn and Cu in TSEs lacks any sort of statistical tests with regards to data analysis. Yet, statements are made classifying some areas of having excessive Mn or deficient Cu. What are these statements based on? Furthermore, in testing the theory of Mn-Cu interaction, only soil and plant tissue has been tested. There has been no analysis of tissue from elk or deer - something very important when dealing with food-chain issues such as this.

4. Cadmium Toxicity

Cadmium (Cd) is a naturally occurring metallic element that is found in trace quantities throughout the environment. Cadmium has no known biological function and is not a nutritionally required element. It has been hypothesized that CWD positive deer are actually suffering from cadmium toxicity rather than a Transmissible Spongiform Encephalopathy (TSE).

Without question, cadmium is a toxic metal that can cause serious health problems if exposed. However, incidences of acute cadmium toxicity or cadmium poisoning in wildlife are extremely, extremely rare. In fact, a search of the literature failed to produce a single occurrence of cadmium poisoning in mammalian wildlife.

Recently, liver and kidney tissue from CWD positive game farm deer were analyzed for cadmium along with other metals. Cadmium was detected in only one of the kidney samples submitted for analysis (Level of Detection 0.1 ppm). Similarly, cadmium was only detected in two liver samples (both samples detected at 0.1 ppm). However, even in the samples where cadmium was detected, the levels were just above detection and were far below the toxic concentration in mammals of 100 ppm wet wt. It is obvious after examining these data that these deer were not exposed to toxic levels of cadmium.

Cadmium concentrations have been documented in a wide variety of North American cervids including: white-tailed deer (Musante et. al., 1993, Stansley et. al, 1991, Glooschenko et al. 1988 and Crete et al., 1987), elk (Parker and Hamr, 2001), and moose (Glooschenko et al., 1988). In none of these studies do liver or kidney cadmium concentrations reach levels considered to be toxic (100 ppm wet wt. or 500 - 1000 ppm dry wt.). Parker and Hamr (2001) examined metal levels in tissues of elk living near smelters in Sudbury, Ontario. Results indicate that even though these elk were living in close proximity to an area contaminated with metals (including cadmium), liver and kidney levels did not approach the toxic concentration. A significant age dependent increase was observed in the elk but this would be expected since cadmium is accumulated and sequestered in the liver and kidney.

If deer in southwest Wisconsin were indeed succumbing to cadmium poisoning, there would have to be an acute source of such exposure. No such source has been identified or even suggested. Furthermore, if CWD was in fact cadmium poisoning (or any other metal), one would expect an extremely high number of cases in the "mineral belt" of Colorado where historic hard rock mining has resulted in numerous waste sites and tailings piles heavily contaminated with metals including cadmium. However, few cases have been found in these areas. In addition, the CWD endemic area in Colorado, where the disease is most prevalent, is in an area with few historic mining operations and relatively low levels of metals compared to other areas. This is contrary to the cadmium hypothesis.

There is no question that deer in southwestern Wisconsin have the ability to accumulate cadmium - all animals have this ability. However, it is clear from past data that it is extremely, extremely unlikely deer from the CWD zone have accumulated toxic or lethal levels of cadmium. Considering what we know about the cadmium levels in cervids, the toxic threshold concentration for cadmium, and the absence of reported cases of mammalian cadmium toxicity, we can confidently state that deer from the CWD zone are not exposed to toxic levels of cadmium.

5. Comments on Dr. Murray McBride's Review Paper

Dr. Murray McBride, a soil scientist from Cornell University authored a non peer-reviewed, unpublished review paper regarding the hypothesis of a nutritional or environmental theory of TSEs. Dr. McBride supports the suggestion that sporadic TSEs are initiated by trace metal imbalances in soil and food chains, particularly excess manganese and deficient copper. Dr. McBride suggests that CWD is caused by a micronutrient abnormality (deficient Cu or excess Mn) and this results in the formation of the abnormal prion and subsequent neurological degeneration.

The review is quite thorough such that the article explores numerous avenues associated with the disease including potential origins of the disease, neuropathology of TSEs and Cu deficiency and the transmissibility of the disease. Although the article provides intriguing arguments and even speculation regarding the role of environmental factors and CWD, it does not produce or describe any scientific evidence that would cause us to abandon the current science. It is true that there is much that we don't know about this disease and more science is needed to investigate the potential relationships between environmental factors and clinical disease. However, the best science to date strongly indicates that CWD is a prion disease that is transmissible from one animal to the other.

The article questions the transmissibility of TSEs suggesting that most disease transmission experiments actually illustrate an autoimmune response and not disease transmission. As previously mentioned in this document, the best science currently available (both field and captive studies) indicates that CWD is a prion disease that can be transmitted from one animal to another. The cluster-like pattern of disease in Wisconsin further supports the data that CWD is an infectious, transmissible disease. Until science identifies an alternative causative agent or proves that the disease is not transmissible, it would be irresponsible for the Department to deviate from the current science-based response.

References

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